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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Seventh periodic report submitted by Poland under article 19 of the Convention, due in 2017*, **, ***

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** The annexes to the present report are on file with the Secretariat and are available for consultation. They are also available on the Committee's web page.

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List of abbreviations

ABW	the Agency of Internal Security
CAT — Convention against Torture and Other	Cruel, Inhuman or Degrading Treatment or Punishment
CPT	the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
CZSW	the Central Board of Prison Service
ERW	the European Prison Rules
ECHR	the European Court of Human Rights
GUS	the Central Statistical Office
HFHR	Helsinki Foundation for Human Rights
KGP	the National Police Headquarters
Kk	the Polish Penal Code
Kkw	the Polish Executive Penal Code
NPM	the National Preventive Mechanism
Kpa	the Polish Code of Administrative Procedure
Kp	the Polish Labour Code
Kpc	the Polish Code of Civil Procedure
Kpk	the Polish Code of Criminal Procedure
Kro	the Polish Family and Guardianship Code
KSSiP	the Polish National School of Judiciary and Public Prosecution
MEN	the Ministry of National Education
MON	the Ministry of National Defense
MRPiPS	the Ministry of Family, Labour and Social Policy
MS	the Ministry of Justice
MSWiA	the Ministry of the Interior and Administration
MZ	the Ministry of Health
NSA	the Supreme Administrative Court
OPCAT	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
PDOZ	a detention room
PK	the National Prosecutor's Office
PKGPOPC	the Police General Commandant Representative for Protection of Human Rights
PRT	the Government Representative for Equal Treatment
RM	Council of Ministers
RP	the Republic of Poland
RPD	the Commissioner for Children Rights (Ombudsperson)
RPO	the Commissioner for Human Rights (Ombudsperson)
RPP	the Commissioner for the Patients' Rights
ESS	the Electronic Monitoring System

SG	the Border Guard
SW	the Prison Service
TK	the Constitutional Tribunal
UDA	the Anti-Terrorism Act
OFF	the Office for Foreigners
EU	European Union

Introduction

1. Previous — the fifth and the sixth — Periodic Reports of the Republic of Poland on implementation of the provisions of *the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (Dz.U. of 1989, No.63 item 378, App.) covered the period from 1 October 2004 to 15 October 2011. Moreover, additional information concerning the period between October 2011 and October 2013 was presented to the Committee during a defence of the 5th and the 6th Report, which was held on 30–31 October 2013.

2. Therefore, in the present 7th Report particular attention will be paid to changes that took place in Poland between 2014 and 15 September 2017. Given the fact that some statistical data quoted in the Report is collected annually, it was not always possible to present the data more recent than 2016.

Answers to questions (*List of issues*) The Committee against Torture (CAT/C/POL/QPR/7)

Answer to question 1 — Definition of torture

3. Information provided in the previous Report remains valid, in particular in the scope of legal regulations. Despite the fact that the Polish Penal Code does not contain a separate torture crime, all elements specified in the definition of torture in CAT are penalised in Poland — they meet the statutory definition of various crimes contained in Kk. Notwithstanding this, the Ministry of Justice started the analysis of whether torture should be included in the Polish Penal Code.

Answer to question 2 — Rights of persons deprived of their liberty

4. Detainee's right to contact with the lawyer has been strengthened by the Act of 27 September 2013 amending the Act — the Code of Criminal Procedure (Kpk) and other acts, which entered into force on 1 July 2015. Contacts with lawyers are regulated by the provisions of expedited proceedings[1] are to keep scheduled office hours to enable contact competent councils prepare lists of attorneys and legal advisors and their office hours which are transferred to presidents of district courts and are updated annually. they contain, among others, contact details of lawyers on duty). They are made available to competent public prosecutor's offices and police departments within the area of a given district court. Lawyers on duty are available in district courts (the lowest level of courts) or in other places, in urgent cases. This means that detainees may immediately contact the lawyer or legal advisor on duty, attorney-client privilege was addressed in the new Regulation of the Council of Ministers of 29 September 2015 on certain Police procedures contrary to the previous regulations, the present ones do not require obligatory presence of a police officer during the detainee's conversation with the lawyer. According to the detainee's letter of rights, which is delivered thereto (an appendix to the regulation), a police officer may be present during his/her conversation with the lawyer only in exceptional cases, justified by special circumstances. The right of the detained to contact with the lawyer or the attorney is guaranteed in Article 102 item 7 Kkw.[2]

5. When a person admitted to a remand prison/prison pursuant to Article 211 Kkw, has the right to immediately notify his next-of-kin and his lawyer about the place of his/her detention. Temporarily detained has the right to notify consular or diplomatic services (if a person in custody has no citizenship — he/she has the right to contact with a representative of the country of his permanent residence.

[1] Article 245 §2 in relation to the art. 517j §1 Kpk.

[2] They constitute that the convict shall be particularly entitled to communication with a defense lawyer, an attorney in fact, a competent probation officer and a representative selected by them referred to in Article 42 Kk.

6. The right of temporarily detained who had the right under the provisions of art. 215 Kkw to contact a lawyer in the absence of other persons or by mail, l, as of 1 July 2015, this right was extended to include the right to communicate with the representative who is not a lawyer or the legal advisor provided he is approved by the Chair of the Chamber of the European Tribunal of Human Rights to represent the convict before this Tribunal in absence of other persons, or by mail. New regulations reiterated the right of the authority where a person in custody remains, namely the possibility to reserve the right for its representative or a person authorised to be present during the visit. Article 217c Kkw was amended — as of 1 July 2015 the possibility for a person in custody to contact with a defence attorney by phone became the rule. This is subject to consent by the authorities which may be deny it under suspicion that the conversation will be used to commit a crime or for obstruction of criminal proceedings.

7. Foreigners staying in guarded centres have the guaranteed right to contact with non-governmental or international organisations providing assistance to foreigners (also legal) and to contact with the attorney in conditions assuring privacy. In all guarded centres for foreigners no staff participate in the meetings with legal counsels (NGOs) and they are held in visiting rooms, or other rooms specially prepared for this purpose. No image recording is allowed unless specifically requested by of one of the parties involved in the visit.

8. Currently, the Government is working on amendments to the Act on protection to foreigners who remain in Poland, which will introduce free legal assistance to foreigners. It will be available, in particular, to a foreigner, subject to extradition or under voluntary return extension and who has no legal counsel. Assistance will be provided by attorneys, legal advisors and authorised employees of non-governmental organizations (against remuneration and refund of travel costs from the funds of the General Commandant of the Border Guard). Assistance will include preparation of appeals against decisions and legal representation in the appeal proceedings.

9. As regards the right to obtain information about grounds for detention and charges please note that the information submitted by the Polish party remains valid. Additionally, please note the changes introduced in the Act of 27.09.2013 amending Kpk and other acts:

(a) Article 244 Kpk details the detainee's right to be informed and served the letter of rights[3] the aforementioned change to Article 244§1 Kpk consisted just of direct formulation of detainee's rights, nonetheless existing in binding regulations;

(b) In Article 300 Kpk directly listed the suspect's rights to be informed and up-dated on the changes. It also introduced the letter of rights.[4] The change of Article 300 Kpk consisted only of precise enumeration of the suspect's and defendant's rights that were already available to them.

[3] According to Article 244§2 Kpk the detained should be immediately notified about the causes of detention and about their rights, including the right to lawyer's or legal counsel's assistance, to use free translator's help, if they are not fluent in Polish in a sufficient degree, to make a statement and refuse submission of the statement, to receive an extract of the custody report, to access to medical first aid and rights designated in Article 245 (the right to direct conversation with a lawyer), Article 246§1 (the right to complaint against detention submitted to court) and Article 612§2 (the right to contact with consular office or diplomatic representatives) as well as about the content of Article 248§1 and 2 (periods of detention and obligation to exemption after their expiration,), as well as to listen to them.

[4] According to Article 300§1 Kpk before the first hearing the suspect should be informed about their rights: to testify, to refuse to testify or refuse answering to questions, to information on the content of the charges and their changes, to submission of applications for the inquiry of examination activity or, to use assistance of defense attorney, including to apply for defense attorney ex officio in the case specified in Article 78, to final familiarisation with materials concerning the preparatory proceedings as well as with rights specified in Article 23a§1 (the right to hear the case in the mediation proceedings), Article 72§1 (right to use translator's help), Article 156§5 and 5a (the right to access to the files of the proceedings), Article 301 (the right to be interrogated in the presence of defense attorney), Article 335 (the right to issue the ruling without a trial on the basis of the previous agreements with regard to penalty between the suspect and the prosecuting attorney), Article 338a (the right to submit an application for issuing the ruling without a trial) and Article 387 (the right to submit an application for issuing sentence without conducting hearing of evidence) and duties and consequences designated in Article 74, Article 75, Article 133§2, Article 138 and Article 139.

10. The following rights were modified:

- Right of access to the case files in connection with remand or extension thereof (Article 156§5a Kpk). The abovementioned Act of 27 September 2013 eliminated the possibility to refuse to make the files available in such a case;
- Right to interpretation and translation (Article 72§2 Kpk). The abovementioned Act of 27 September 2013 introduced the possibility to use the assistance of an interpreter also for communication between the suspect or the accused and the attorney.

11. With regards to immediate notification of a family member about detention or remand, the valid regulations already provide for such a possibility.[5]

Answer to question 3 — Legal assistance for the poorest

Free legal counselling

12. Pursuant to the Act of 5 August 2015 on free legal counselling and legal education (Dz.U. item 1255, with later amendments, hereinafter referred to as "the Act") there are 1.525 free legal assistance centres throughout the country, where the eligible persons may seek legal advice. Free legal counselling is provided in these centres by attorney, legal advisors, and, in some cases by trainee legal counsels. In the legal aid centres designated by local authorities, counselling is provided by tax advisors within the scope of their competence and law graduates with at least three years of experience.

13. The Act regulates only Legal counselling provided at the pre-litigation stage, pursuant to It Article 3, passage 1, item 3 which prohibits free legal aid provider to prepare procedural writs in pending preparatory or court proceedings or writs in pending court-administrative proceedings. This is due to the fact that legal c counselling is regulated by separate acts of law litigation All the relevant information on free legal aid centres is available on the websites of local authorities.

14. Pursuant to Article 3 passage 1 of the Act, free legal counselling, covers:

1. Informing the entitled person about legal circumstances, his/her rights or obligations; or

2. Advising the entitled person on possible solutions a route for solving his/her legal problem; or

3. Assistance in preparation of a draft letter in the cases referred to in item 1 and 2, excluding procedural writs in pending preparatory or court proceedings or writs in pending court-administrative proceedings; or

4. Preparing a draft letter concerning exemption from the costs of proceedings or request for a court-appointed attorney in court or arbitration proceedings, or request for a court-assigned counsel, a legal advisor or a patent attorney in court-administrative proceedings.

15. Free legal counselling covers all fields of law, other than customs, foreign exchange law, commercial law and business law, except start-up preparation. Under the law in question, people under 26 are eligible for free legal aid including people under 18, whose right is regulated by Article 98 Kro.

16. In 2016 free legal advice was provided in 113,366 cases to 99,774 persons, 0.23% of whom were 16 and 2.22% to persons aged 16–19.

[5] According to Article 261§1 and 2 Kpk on the application of temporary detention, the court is obliged to promptly notify an immediate family member of the suspect or the charged; It can be a person indicated by the suspect or the charged. At the request of the suspect or the charged it is also possible to notify another person, instead or apart from the immediate family member. The same principles are also applicable in the case of a person's detention, with the exception that the notice occurs upon request of the detained (Article 245§3 Kpk).

Justice Fund

17. The Fund for victims of crime and post-penitentiary assistance was established on 1 Jan 2012. It was renamed 12 August 2017 d to Justice Fund. It is a national special purpose fund, at the discretion of the Minister of Justice. The Revenues of the Fund include vindictive damages and cash benefits ruled by courts.[6] It is subsidiary to free legal aid and available to participants of criminal or civil proceedings, who proved to be unable to retain legal a lawyer, or don't qualify for free legal aid. In 2016, a total amount of PLN 19,715,182 was granted through a competitive process to 26 selected organisations in which victims may seek legal assistance. Most of the persons eligible for this assistance are victims of domestic violence, including minors.

Answer to question 4 — Commissioner for human rights

18. In a four-year period covered by the report, RPO applied for grants in the total amount of PLN 170,143,000, of which PLN 150,574,000 was granted, i.e. 88.5% of the requested amount. A focus group working within the Office of RPO and conducting tasks of the National Preventive Mechanism (NPM) does not have a separate budget, and its expenditures are covered from the RPO general budget. Consequently, we can present NPM expenditures on year-by-year perspective. In years 2014–2016[7] a total of PLN 8,442,188.07 was spent on the implementation of NMP tasks, which is 7.4% of the entire RPO budget.

19. As of 30 June 2017 the Office of RPO had 284 full-time employees (this number was similar in the years covering the reporting period). In years 2014–2015 NPM employed 12 persons (in 2015 there was one additional full-time position in the secretary's office and half-time for a physician). In the years 20162017 NPM had 11 part-time employees, including: a director, a deputy Director, a secretary and 8 professionals. Please see Appendix 1 for details.

20. The Office of RPO does not keep separate statistics of complaints concerning CAT violations These issues are handled by specialized that operate both in the seat of RPO in Warsaw and in the local Offices Plenipotentiaries (Gdańsk, Wrocław, Katowice). As regards complaints against the police it is not possible to separate statistics on the use of torture, or other cruel, inhuman or degrading treatment or punishment. Therefore, statistics relate to the general number of requests including complaints against the Police and a manner they were handled. In the period covered by the report a total of 3,233 Police-related complaints were received (including 477 complaints received by the local Offices). In 74 cases a violation of rights and liberties of the applicant was ascertained (including 20 cases examined in the local Offices). In the same period a total of 3,936 cases related to activities of the Prison Service were reported (including 173 complaints received by the Offices of the Field Plenipotentiaries). These cases related mainly to treatment, using

[6] Fund resources are used:

- To assist the aggrieved by a crime and their immediate family members, especially medical, psychological, rehabilitation, legal and material aid granted by units excluded from the public finance sector and non-working to achieve profit, including associations, foundations, organizations and institutions and granted by units regarded as the public finance sector;
- Implementation of statutory tasks related to protection of interests of parties by a crime and witnesses, as well as detection and prevention of crime and provide services in liquidation of effects harm by a crime by units of the public finance sector;
- Funding alternative methods of conflicts solving, in particular mediation in cases concerning family, minors and penalty;
- Education in prevention of violence and crime in particular for police officers and employees of educational units and health protection;
- Psychological assistance for witnesses and their immediate family members.

[7] Data do not include the year of 2017, due to the ongoing resources disbursement this year. One may however, assume that the funds disbursed for KMP this year will be close to those of 2016.

means of physical coercion, body search and inspection of residential cells. In 96 cases a breach of law was ascertained (including in 4 cases examined by the local Offices).

21. RPO intervened also in individual cases, following complaints concerning abuse of power by SG officers in guarded centres. In years 2014–2017 RPO received more than 50 complaints related to unlawful placement in a guarded centre or conditions prevailing in this type of establishments. The local Offices received 4 such complaints. In one case a violation of civil rights and liberties was ascertained.

Answer to question 5 — Violence against women, domestic violence

22. Measures implemented by Poland to prevent and combat violence, including violence against women, are aimed at their protection and support.

Information about legal regulations — domestic violence

23. The previously submitted information on the subject remain valid.

24. Additionally, it should be emphasised that Poland ratified in 2015 the Council of Europe Convention on preventing and combating violence against women and domestic violence adopted in Istanbul on 11 May 2011 (hereinafter: "Convention"), which has been enforced in Poland. The Actions taken by public institutions at all levels of public administration fit into the Polish system of combating and preventing violence. The provisions of the criminal law are of key importance, the Act on counteracting domestic violence, and programmes: *The National Programme for Counteracting Domestic Violence and the National Action Plan for Equal Treatment*. Within their scope, actions are taken to ensure safety and assistance for victims of violence, raise awareness of violence, and about the institutions providing specialised assistance to victims, specific measures, necessary to prevent sexual violence and to protect women are not deemed discriminatory in the light of the Convention.

25. The provision of Article 32 of the Polish Constitution stipulates equality before the law.[8] Additionally, Article 33 indicates that man and woman have equal rights in family, political, social and economic life as well as to: education, employment and promotion, equal remuneration for the same work, social security, positions, function and public honours and decorations.

26. Protection against discrimination is also provided for by the Act of 3 December 2010 on implementation of some EU regulations on equal treatment. It organised the legal situation and implements the provisions of binding EU anti-discrimination directives, and, at the same time, defines legal measures protecting the principle of equal treatment and the responsible authorities The Act includes prohibition to discriminate on the grounds of sex, race, ethnic origin, nationality, religion, denomination, worldview, disability, age or sexual orientation.

27. Both the Constitution and other regulations safeguard the right for life free of violence. Kk guarantees protection against violence by sanctioning perpetrators of violence who also commit a crime. As domestic violence breaches basic human rights, for life and health, personal dignity, the Act of 29 July 2005 imposes on the authorities the obligation to ensure equal treatment and respect for rights and liberties of all citizens, and to increase the effectiveness of counteracting domestic violence. On 24 January 2014 the amendment of criminal-law provisions introduced, e.g. ex officio prosecution of sexual crimes specified in Article 197–199 Kk. This change, by repealing Article 205 Kk, abolished the previous mode of prosecution rapes committed after 27 January 2014. It introduces also a new mode of hearing of victims of sexual violence by the court, which shall be recorded and conducted in special rooms (Article 185c§2 Kpk).

[8] Everyone has the right to equal treatment by public authorities. Nobody can be discriminated against in political, social or economic life for any reason.

Efficiency of the current domestic violence prevention system in Poland and in other EU countries

28. It is one of the most efficient systems in Europe as confirmed by surveys on domestic violence against women conducted by the Agency for Fundamental Rights. According to its studies, [1] 19% of Polish women, and 33% in the EU experienced violence by either current or previous partner).

The project: "Rights of sexual crimes victims — new system approach, flow of information, trainings"

29. The Office of the Commissioner for Equal Treatment carried out this project from December 2013 until 15 December 2015 under the EU scheme. Its purpose was to support national entities in development and implementation of information and communication activities concerning counteracting violence against women and girls. It is rooted in the need to improve reliability of response to sexual crimes by the police, the court and the public prosecutor.[9]

Guidelines for assistance to victims of sexual crimes

30. On 23 July 2015 the Chief of the Police issued Guidelines no. 1 where §58 passage 12 introduced, *the Police Response to the victim of sexual crimes*.[10] The Procedure was developed by the Feminoteka Foundation (under the project entitled "Stop gwałtom" ("No to rapes") (co-financed by the S. Batory Foundation) in cooperation with the Commissioner for Equal Treatment. It was consulted with representatives of public administration, including the Police and the General Prosecutor's Office, as well as with experts representing non-governmental sector. The guidelines provide instructions for response to victims of sexual crimes. In 2015 Feminoteka developed *The Procedure of Response to Victim of Sexual Violence by Medical Establishment*.[11] This Procedure was consulted with representatives of public administration, the Ministry of Health, other governmental bodies and experts from NGOs.

Radio and Internet campaign zero tolerance for sexual violence against women — "Sexual violence. It often begins with words"

31. This Campaign was implemented in November 2016 by PRT. Its goal was to disseminate a message emphasising zero tolerance toward sexual violence against women and debunking untrue and harmful theories and stereotypes concerning sexual violence. It also demonstrated that this issue concerns predominantly women and that sexual violence is a reprehensive phenomenon, and a crime. Between 8–28 November 2016, Polish Radio 1 and RMF FM broadcasted a total of 210 20-second spots. A banner was also displayed by

[1] European Union Agency for Fundamental Rights, Violence against women: an EU-wide survey. Main results, Luxembourg 2014, p. 20.]

[9] Main goals and actions implemented in the project:

- Ensuring to the victims of violence as well as guardians of underage victims of sexual violence clear, easy to understand information on their rights. To achieve this objective 1.505.000 copies of leaflets, booklets and posters promoting website have been printed. These materials have been sent to Police units of different levels, local government units, as well as via non-governmental organizations;
- Increasing the availability of information on sexual violence by creating a website including information about methods of dealing with violence and information on the appropriate authorities and organizations providing assistance to the victims of sexual violence - the content has been prepared and the website has been designed www.przemoc.gov.pl;
- Increasing knowledge and interpersonal competences of government representatives, who have contact with victims of violence — series of specialist trainings (workshops) have been conducted for 191 representatives of units who have contact with victims of violence against women (police officers, prosecutors, judges as well as social employees) in their everyday work.

[10] The full text of procedures of conduct of Police with a person who experienced violence may be found on police's website or at www.przemoc.gov.pl.

[11] The full text of procedures of conduct of a medical establishment with a person who experienced violence can be found at www.przemoc.gov.pl.

portal: www.onet.pl. 4,185,837 people heard the radio spot at least once, and 3,074,370 people heard it at least three times. There were 8,045,763 hits on the banner recorded, of whom 4,775 were re-directed to portals: www.rownetraktowanie.gov.pl and 2,449 www.przemoc.gov.pl.

National Action Plan for Equal Treatment

32. This initiative will be continued focusing again on activities counteracting violence.

National Programme Against Domestic Violence 2014–2020

33. The Programme[12] carries on the message from 2006–2016. It contains regulations safeguarding equal treatment of citizens and respect for their rights and liberties, to make anti-violence efforts more efficient. Its assumptions state: "all levels of public administration are obliged to implement long-term actions to limit violence, stress efficient protection and assistance to victims of violence, better access to institutions providing support to victims of violence, with information booklets published". The activities are coordinated by the Ministry of Family, Labour and Social Policy in cooperation with: The Ministry of National Education, the Ministry of Justice, the Ministry of the Interior and Administration and the Ministry of Health.

34. The phenomenon of violence, including violence against women is monitored and findings are made public in the form of annual reports, prepared in cooperation with local authorities, Ministries and Public Prosecutor's Office. Some studies are commissioned Eg. research conducted in 2015 by the Polish Academy of Sciences — Institute of Psychology, entitled "Domestic violence against elderly and disabled people" and comparative research from 2009–2015.[13]

35. In 2016 a national social campaign for counteracting domestic violence entitled "I choose help" was initiated via the mass media, outdoor advertising carriers, press and the Internet. Two 30-second television spots were produced. As part of the campaign, a website was launched, providing access to information with regard to counteracting violence, including, free helplines. Also, training is provided to first responders who work both with victims and offenders. The aim is to create local anti-violence networks and to provide re-education to people who use violence, mediation, assistance to victims, work with problem families, victimised kids, victims of violence, enable better understanding of violence and counter-measures, and ability of public services to respond, maintain standards of record-keeping under the 'Blue Card' procedure, and on legal aspects of counteracting violence.

36. Victims of violence receive help in consultation units, centres of support, homes for mothers with children and pregnant women, crisis intervention centres run and financed by local authorities. Other forms include: crisis intervention and support, protection against further harm by restraining orders and forceful separation, safe shelter in specialised centres of support for victims of domestic violence or assistance to victims in obtaining independent accommodation.

Other initiatives

37. Ministry of Family Affairs Labour and Social Policy runs the Operational Programme "Counteracting domestic violence and sexual violence" co-financed by the Norwegian Financial Mechanism (NFM). The main objective is to limit and prevent all kinds of violence by fostering cooperation between central and local authorities and NGOs that work directly with the victims.

38. So called "Blue Card" procedure, provides different forms of assistance to the victim, including psychological, legal and social counselling.

39. Specialist domestic violence victim's support centres are financed from the state budget. Currently, 35 such centres operate in Poland. They are run by local authorities,

[12] Set up by resolution no 76 of the Council of Ministers of 29 April 2014 National Action Against Domestic Violence for 2014-2020 (Monitor Polski [Official Journal] ?item 445).

[13] The report is available on the website www.mrpips.gov.pl.

providing shelters for victims and children. A person is placed in such a centre for a period of 3 months, with a possibility of extension in justified cases, without any "referral", regardless of the victim's income. The centres provide medical, psychological, legal assistance, social counselling, accommodation, board, clothes and shoes. They cooperate with social welfare centres, local family assistance centres, the Police, courts, public prosecutor's office, municipal guards, health care centres, psychological-pedagogical clinics, schools, kindergartens, churches, NGOs, communal commissions for solving alcoholic problems, family diagnostic-consulting centres, county labour offices, local mass media. In 2018 and 2019 two new specialised centres of support will be established, for which financial means have already been set aside in the state budget.

40. Additional funds (PLN 340.000 per year) have been set aside since 2017 in the budget of the Minister of Health intended for a 24h, free national helpline for victims of violence, including sexual violence. Since January 2017 the State Agency for the Prevention of Alcohol-Related Problems have operated a 24/7 helpline at the phone number 800-12-00-02 for victims of violence.

Public Prosecutor's Office Initiatives

41. Prosecutors get involved in programmes for protection of victims of violence in cooperation with local authorities and by taking part in the works of Interdisciplinary Teams for Counteracting Domestic Violence. Eg. prosecutors set up regular office hours in the Municipal, Communal and County Social Welfare Centres, when they provide free legal assistance. Prosecutors also actively participate in meetings of the Safety and Order Committees at the Municipal Offices, dealing with domestic violence.

42. The National Prosecutor's Office organises or co-organises trainings and conferences on counteracting domestic violence, both in terms of criminal proceedings and other actions taken. The programmes entitled "The Week of Assistance to the Victims of Crimes" and "The Week of Mediation" are continued. As part of these programmes, prosecutors provide victims, including victims of domestic violence, free legal advice on how to report a suspected crime, inform on stages of criminal proceedings, rights, and access to different types of assistance.

43. Prosecutor's offices maintain regularly updated websites with information for victims of crimes, and victims of domestic violence, lists of non-governmental institutions and organisations providing assistance to victims of crimes are available in prosecutor's offices.

44. Prosecutor's offices in Poland cooperate with competent entities involved in counteracting domestic violence in order to increase the detectability of this kind of crimes, the effectiveness of their prosecution, and to maximize the use of available funds. Victims are informed by prosecutors how to access assistance from authorities and institutions. Information secured under the 'Blue Card' programme is used during proceedings.

45. Prosecutors intervene during preparatory proceedings to limit contact between violence victims and offenders by applying suitable preventive measures. Relevant statistics — Appendix no. 2.

46. Prosecutors enforce the General Prosecutor' Guidelines of 1 April 2014. and 22 February 2016, *concerning operational guidelines against prevention of domestic violence*. On 18 December 2015 The General Prosecutor issued *Guidelines for Response to crime of rape*.[14] The recommendations stress the victim's wellbeing, mandate that efforts must be made that victims are treated professionally, with due consideration, respect and dignity, to prevent secondary victimisation and bearing in mind that we deal with victim's intimate sphere of privacy.

[14] The full text of the guidelines of the General Prosecutor can be found on the General Prosecutor's Office website or at www.przemoc.gov.pl.

Activities of the Border Guard

47. In 2013 BG decided to introduce profiling in guarded centres according to category of people placed there (single men, single women, unaccompanied minors, families, including families with children).[15] Separation of single men prevents unwanted events involving violence against women. In addition, in 2015 an algorithm was set up to handle people requiring special treatment, where victims of sexual violence are considered as especially vulnerable. The algorithm allows to monitor moods and behaviour of foreigners staying in guarded centres. A return guardian and a social worker are assigned to each foreigner placed in the centre. The former conveys information concerning administrative procedures, whereas the latter provides orientation to the facility and its by-laws; he looks after the foreigner (evaluates his psychophysical condition) and monitors his/her behaviour. Furthermore, several channels of communication were established for foreigners to lodge claims or requests.[16]

Activities of the Police

48. The Police has statutory obligation to ensure safety and protect the public, including victims of domestic violence. As soon as Officer becomes aware of any potentially illegal act, he has statutory responsibility to verify it, secure evidence, pursuant to Article 308 *Kpk* or carry out other police activities, under provisions of Article 307 §1 *Kpk*. Simultaneously, the act is assessed to establish whether law has been breached.

49. In view of the above, having received information on suspected criminal offence, including acts of domestic violence such as physical or mental abuse, the Police takes actions following the procedure outlined in the regulations of Kpk, or, in the case of a violent behaviour that does not fall into definition of a crime pursuant to the Act on *Counteracting Domestic Violence*. This allows for registration of each event associated with domestic violence, including crime (legal registration), as well as suspicions of domestic violence (statistical registration under the *Blue Card* procedure).

Judicial decisions in criminal cases in terms of penalty for domestic violence perpetrators

50. Domestic violence goes far beyond the statutory definition of abuse of the next of kin, pursuant to Article 207 *Kk*.[17] Abuse is certainly the most glaring example of domestic violence, however, it does not reflect the entire phenomenon.

51. As the broad definition of domestic violence,[18] may include various crimes, for the sake of statistical accuracy, it is necessary to specify the types of acts forbidden by the law, that meet the definition of domestic violence.

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[15] Categorization of guarded units is presented below:

- Three centres intended for families and lonely women (including one with places for unaccompanied minors);
- Three centres intended exclusively for lonely men.

[16] Through:

- Contact with social representative;
- Contact with manager of the guarded centre;
- Contact with a psychologist;
- Use of the so-called "letter box" (possibility of anonymous submissions).

[17] "Article 207 §1. Who abuses physically or mentally an immediate family member or any other person who is permanently or transiently dependent on the perpetrator, or minors or physically or mentally challenged person, due to their mental or physical condition, is liable to deprivation of liberty for a term of between 3 months and 5 years.

Section 2. If an act specified in §1 is associated with the use of particular cruelty, the perpetrator is liable to deprivation of liberty of up to 10 years.

Section 3. If a consequence of an act specified in §1 or 2 is attempt of suicide of the aggrieved, the perpetrator is liable to deprivation of liberty for a term of between 2 and 12 years."

52. Court statistical forms take account of statistics of crimes that may be qualified as domestic violence.[18] See Appendix no. 3.

53. A particular situation of the child as a victim of violence makes it impossible to comprehensively and effectively specify protective actions to safeguard the minors in one legal act concerning various victims of violence (women, men, elderly people, the disabled). In view of the need to provide special protection for children, the Commissioner for Children's Rights (Ombudsperson) appealed to the Prime Minister to have the National Strategy for Combating Violence Against Children worked out.

54. In order to strengthen legal protection of minors, with a particular focus on children under 15, the elderly, vulnerable due to mental or physical condition, the President of the Republic of Poland, to the initiative of the Commissioner for Children Rights drafted amendment of regulations to Kk, consisting, demanding harsher penalties for the most serious crimes against minors and introducing a legal obligation to notify law enforcement about such crimes. The amendment entered into force on 13 July 2017.

Answer to question 6 — Human trafficking

55. Information contained in the previous report on penalisation of human trafficking is current. No new criminal provisions were introduced in this respect.

56. As regards access to appeal, the criminal law does not provide for any special measures for victims of human trafficking. Its victims may use measures available to any aggrieved party. The aggrieved party has the right to:

- File a complaint against the decision on refusal to initiate or discontinue an inquiry or an investigation, and to access the file (Article 156 *Kpk*, Article 306 *Kpk*, Article 325a, §2 *Kpk*);
- Press charges if the decision on refusal or discontinuance of the proceedings is issued again (Article 55 *Kpk*, Article 330 §2 *Kpk*) after examining prior complaint in this respect. The aggrieved party shall do this within one month from the date of service and it may become a class action of other victims of a given act also join in. The claim must be prepared and signed by an Attorney;
- Lodge an appeal against the court of first instance decision if it is a party to criminal proceeding (Article 425 *Kpk*). The victim is granted the status of the party upon joining the legal proceedings as an auxiliary prosecutor, who may act along with or instead of public prosecutor (Article 53 *Kpk*). The victim becomes the auxiliary prosecutor upon bringing an indictment pursuant to Article 55 *Kpk*, or by making a statement if the indictment was brought by the prosecutor (Article 54 *Kpk*). If the victim acting as the auxiliary prosecutor does not speak Polish in a sufficient degree, he is served translation of decision subject to appeal or a decision terminating the proceedings into the langue he speaks unless he agrees to oral presentation of the Court's final judgement that cannot be appealed against (Article 56a *Kpk*);

[18] Concluded in Article 2 item 2 of the Act of 29 July 2005 on preventing domestic violence: "is one-time or recurring wilful act or omission violating rights or goods of family members, in particular exposing these persons to loss of life, health, violating their dignity, physical integrity, freedom, including sexual freedom, causing damage on their physical or mental health, as well as causing suffering and moral harm of the victims of violence".

[19] Article 148 §1 — 4 Kk — homicide; Article 156 §1 to 3 Kk — causing severe health impairment of a human; Article 157 §1 and 2 Kk — causing medium and light health impairment of a human; Article 189 Kk — deprivation of freedom; Article 190 Kk — unlawful threat; Article 190a — persistent harassment (stalking); Article 191 Kk — violence or unlawful threat to force to a given behaviour; Article 191a Kk — recording and dissemination of an image of a nude person; Article 197 §1 — 3 Kk — rape; Article 198 Kk — sexual intercourse with a person in the state of limited sanity; Article 199 Kk — forcing sexual intercourse to subordinate entity, in critical position; Article 200 §1 and 2 Kk — pedophilia, practising, presentation of the content; Article 201 Kk — incest; Article 202 §1 — 4b Kk — presentation of pornographic content; Article 203 Kk — bringing another person to practising prostitution by violence; Article 207 Kk — abusing immediate family members; Article 208 Kk — inducing minors to heavy drinking.

- Appeal against the decision on conditional discontinuance of the proceedings, issued on the hearing (Article 444 *Kpk*) This option is open to the victim (not being a party to the proceedings depending on the stage of proceedings. The hearing, where conditional discontinuation of the proceedings is adjudicated, takes place before a trial. The aggrieved party has the right to join the proceedings as an auxiliary prosecutor until the time of initiating court proceedings on the main hearing. Appendix no. 4: measures that the victim may use in order to claim compensation.

57. The Police is party to ca. 40 bilateral international agreements on cooperation in crime prevention and countermeasures, including crimes against personal freedom and human trafficking, that are, to a large extent, related to violence and cruel, inhuman or degrading treatment. Police from the countries interested in cooperation can exchange information or conduct joint activities to combat this kind of crime. On 22 September 2016 Chief of Police issued a regulation no. 14 on counter-human trafficking activities. This act establishes, among others, departments responsible for combating human trafficking and provides guidelines to identify victims of human trafficking. It has two very helpful appendices, i.e. a questionnaire supporting the identification of a crime and the letter of rights of the alleged victim of human trafficking.

58. The Department of Prevention at the Police Headquarters, together with the Dutch Police implements a project entitled 'Your Safety — Our Concern — Work in the Netherlands', to protect the safety of Polish citizens abroad and increase their awareness about potential hazards. The first projects were implemented in 2014 in Racibórz and Opole. In 2015 the project covered the entire Poland. It targets high school seniors, students, the unemployed and other persons interested in working abroad. It provides w rkshops for the Police, that volunteered to participate. The meetings are run by the practitioners and counter human trafficking specialists in the Netherlands. The most common issues include: the situation on the Dutch labour market, employees' rights in this country, threats to economic migrants and legal sanctions in the Netherlands for crime of human trafficking. Organisers provide information about organisations helping victims and procedures in human trafficking cases. Dutch migration specialists and representatives of organisations providing assistance participate in the workshops. The project continued in 2016 under the same formula. Additionally, police officers from criminal and prevention services, and employees from institutions that may work with people willing to work abroad, employees of social assistance centres, labour offices and private entrepreneurs participated in the workshops. In 2016 there were 5 sessions and 43 meetings took place, involving more than 8,500 participants. 5 sessions are planned for next years.

59. See Appendix 5 for quantitative data on preliminary proceedings in human trafficking and Appendices no.6 and no.7 for statistics on court sentences.

Answer to questions 7, 8, 9, 10 and 11 — Refugees and asylum seekers

60. Information presented in the previous report is still up to date.

61. Regulations of the Act of 13 June 2003 on granting protection to foreigners within the territory of Poland (version of 13 November 2015) take into account particular needs of people who seek international protection in Poland, including victims of tortures, traumatised and disabled persons. The procedures are conducted in conditions ensuring him/her freedom of expression, in a manner adapted to his/her psychophysical condition, and at convenient time. If so required, the procedures are carried out at the place of his/her stay and, if necessary, with participation of a psychologist, doctor or interpreter. On request, the interview can be conducted by person of the same sex. In any such procedure the Office for Foreigners (hereinafter: OFF) collects information about history of abuse against the victim, including sexual and sexual violence. When the foreigner, including a minor, cannot obtain help in the country of origin due to violence used against him/her, he/she is covered by one of forms of international protection.

62. Pursuant to Article 70, (1) of the abovementioned Act, the applicant and a person, on behalf of whom the applicant acts, are provided with social assistance and medical care. The priority is to ensure safety for applicants and to counteract various forms of violence

and harm. Therefore, OFF cooperates closely with the Police and the Border Guard (SG), as well as the Internal Security Office. Law enforcement and special security guards protect the safety in the centres, security is enhanced by dedicated personnel, 24/7.

63. OFF organised in 2010 a special establishment for women and children in the centre in Warsaw. In addition, the Head of OFF developed guideline procedures for staff.[20]

64. The Act on Foreigners fully respects the principle of *non-refoulement* in respect of refugees and persons applying for international protection — Article 303, (1), item 1 i 2.[21] Furthermore, pursuant to Article 303, (4) of the aforementioned Act, the return proceedings shall not be initiated until the decision in international protection is pending. The issue of suspension of the appeal is regulated by the Act — C de of Administrative Procedure.[22] According to Article 330, (1), item 1–3 of the aforementioned Act a binding return decision is not enforced, if: — the protection proceedings are pending (but for exceptions in art. 41 of the Procedural Directive) — e is allowed to stay for humanitarian reasons or tolerated residence permit.

65. The Ombudsperson for Children may petition for non-removal on humanitarian grounds if the decision to the contrary would violate the children rights or harm their development.

66. The principle of *non-refoulement* is reflected also in the content of Article 28.2, item 2 of the Act on Foreigners, which states that the foreigner cannot be denied entry to the country even if he does not meet entry conditions if he lodged an application for international protection or declared his/her intention to do so. In addition, Article 317.1 of the aforementioned Act provides alternative measures to placement in guarded centres, such as: obligation to report at SG at specified time, obligation to pay a cash security, obligation to stay in a designated place, and deposit travel document (applies to cases other than refugee procedure, during which travel documents are always deposited). This alternative measure can be applied by SG or the court in case of application for placement in the guarded centre. The Court shall always hear the person. In 2015 they were used in 1.026 cases, while in 2016 — 2.317.

67. The foreigner's stay in a guarded centre is monitored and he is immediately released whenever his further permanence is deemed groundless for any reason: pursuant to article 406.1 of the Act on Foreigners the foreigner may be discharged from a guarded centre under the SG order. This by-passes the court which used to slow down the dismissal procedure in the past. An average period of stay was shortened in 2016 — 70,96 days, (in 2015 — 74,63 days).

68. Unaccompanied minors seeking protection cannot be placed in guarded centres for foreigners — they are placed in foster care environment, unless the return procedure is pending. If they are 15 or older, they may be placed in guarded centres for foreigners. Accompanied minors seeking international protection may be placed in a guarded centre for foreigners, however, the court is obliged to take into consideration the best interest of the child. The same applies to families with children for whom the return procedure was initiated.

69. The centres are refurbished, which is co-financed by the EU funds. The following investments are planned for 2016–2018. Please see Appendix for details.

[20] Among the binding procedures, issues of monitoring, preventing and properly reacting in situations where safety of foreigners may be compromised is of utmost importance.

[21] According to this provision the decision on obligation of return is not issued to a foreigner:

- Who has refugee status or uses subsidiary protection;
- Or who had received residence permit on humanitarian grounds or tolerated residence permit or for whom reasons for granting such permit occur.

[22] Pursuant to Article 130 §1 of the Code of Administrative Procedure. Decision shall not be enforced before the appeal deadline. In addition, pursuant to Article 130 §2 of the Code of Administrative Procedure provision of an appeal by a foreigner suspends execution of the decision — decision is not enforceable until delivery the decision issued by a higher independent body to the foreigner.

70. Penitentiary judge oversees legal procedures during foreigner's stay in the centre, including, living conditions medical care and rights. There was no reported indication on irregularities. Conditions of the foreigner's stay in the guarded centre are monitored both by the National Preventive Mechanism and NGOs.

71. Actions taken in order to prevent and respond to sexual violence, particularly changes that took place in the functioning of guarded centres have been described in the answer to question no. 5.

72. Appendix no. 8 provides information referred to in the question no. 9.

Answer to question 12 — Implementation of article 5 of the Convention

73. Information submitted earlier by the Polish party in this regard is up to date. Additionally, it should be emphasised that the jurisdiction of Polish courts with regard to crimes prosecuted under international agreements is very broad. Both citizens of Poland, and foreigners may be tried before Polish courts, regardless of where the crime had been committed.

74. Pursuant to art. 5 Kk, in case of crimes committed on the Polish territory, aircraft or vessel. Polish law is applicable.

75. In case of crimes committed abroad, pursuant to Art. 109 Kk, law is applicable when the crime was committed by Polish nationals. Additionally, the principle of dual criminality applies to acts committed abroad (Article 111 *Kk*). However, it does not apply in the case of acts prosecuted on the basis of international agreements, to which Poland is a party. Regardless of regulations which are binding in a place where a crime was committed, pursuant to Article 113 *Kk* law applies to the Polish citizen and the foreigner, who was not extradited, in the event that he/she committed a crime, which the Republic of Poland is obliged to prosecute under the international agreement, or committed a crime specified in the Rome Statute of the International Criminal Court, prepared in Rome on 17 July 1998.

76. The phrase "who was not extradited" should be explained. It relates to the extradition procedure. in cases, when Poland refuses to extradite or the request has not been issued, the proceedings shall take place in Poland.

77. Please see Appendix no. 9 for examples of crime of torture committed by law enforcement in Poland.

Answer to question 13 and 14 — Treaties and agreements on mutual legal assistance

78. In the years 2014–2017 no bilateral agreements related to legal assistance in criminal cases or extradition came into effect in Poland.

79. The following agreements are being negotiated:

- With India and Peru, on legal assistance in criminal cases;
- With Argentina, on extradition;
- With the United Arab Emirates, on legal cooperation in criminal cases, regulating both the issue of legal assistance in criminal cases and extradition.

80. In the aforementioned agreement, there is no closed catalogue of crimes which result in extradition. Instead, they are function of the duration of the sentence provided for by the national law. Under provisions of the currently negotiated agreements, Article 4 of the Convention (CAT) crimes are sanctioned with extradition.

81. It should be emphasised that human rights protection issues, including Article 4 CAT, are always subject to diligent case-by-case scrutiny during the extradition procedure, conducted either under international agreement, or the national law on the basis of reciprocity. Whenever Poland enters into international agreement we take into account negative extradition premises, including circumstances indicated in Article 4. In the event

that there are no contractual regulations in this regard Article 604 §1, item 7 *Kpk* applies, according to which extradition is unacceptable, if there is a justified concern that rights and liberties of an extradited person may be violated in the country requesting extradition. Thus, the legislator recognised that extradition of the prosecuted person is legally unacceptable in the event that this person could be subjected to tortures or inhuman, degrading treatment or punishment. It is assessed both by the court adjudicating on the legal admissibility of extradition, and the Minister of Justice.

82. In the years 2014–2017 the Minister of Justice received 79 extradition requests, of extradition did not take place in 28 cases in most cases, extradition was refused to countries such as Belarus, Russia, Turkey, Iran and Ukraine. In the examined cases refusals were justified by a refugee status obtained by the prosecuted in Poland or other EU Member State, or by the withdrawal of the extradition request. In 7 cases a refusal was justified by circumstances indicated in Article 604 §1, item 7 *Kpk*, namely fear that rights and liberties of an extradited person will be violated. In two cases extradition was refused due to the political nature of a crime.

83. The details of the extradition cases examined by the Minister of Justice, are as follows:

- 2014 — 6 requests received; extradition denied in 2 cases — Turkey and Belarus; in both cases extradition was refused pursuant to Article 604 §1, item *Kpk*;
- 2015 — 22 requests received; extradition denied in 11 cases — USA, Russia, Ukraine; none of them was related to the provisions of Article 604 §1, item *Kpk*;
- 2016 — 21 requests received; extradition denied in 7 cases — Russia, Iran and Belarus; in 4 cases pursuant to Article 604 §1, item *Kpk*.

Answer to questions 15, 16 and 17 — Trainings

Trainings for judges and prosecutors

84. Since 2014 the Polish National School of Judiciary and Public Prosecution (KSSiP) has conducted trainings in human rights and the convention system. Topics include ban on torture and inhuman and degrading treatment or punishment, as well as the court control of the legality of a custodial sentence, promptness of the procedure, adversarial nature and equality of parties, freedom of expression, rights of imprisoned persons:

- In 2014 — 10 editions for judges adjudicating in criminal cases, their assistants and prosecutors, regional public prosecutors and assistant public prosecutors, in which 190 persons took part;
- 2015r. — 2 editions of training sessions (3-day), namely:
    - 15–17 February 2015 in Kraków — a training for judges adjudicating in criminal cases, their assistants, prosecutors, regional public prosecutors and assistant prosecutors, in which 49 people took part;
    - 28–30 October 2015 in Dębe — a training for judge consultants of district and appeal courts, as well as prosecutors, in which 18 people took part;
    - 10–12 October 2016 in Lublin — a training for consultants of judge's ruling in criminal cases and prosecutors, in which 56 people took part.

85. Moreover, as part of international cooperation, in the period 2014–2017, 12 Polish judges and prosecutors took part in 6 international trainings on the issues of the ban on tortures or abuses by officers against detainees and imprisoned persons: and so:

- In 2014 two training "Recent case law of the ECHR in criminal matters" and "Improving conditions related to detention" — for 3 people;
- In 2015 one training: "Supervising matters related to detention" — for 2 people;
- In 2016 three trainings: "Improving conditions related to detention", "Supervising matters related to detention" and "Recent case law of the ECHR in criminal matters", in which 7 people took part.

86. Introductory training conducted by KSSiP in 2014–2016 included workshops on European arrest warrant and surrender procedure, Art. 3 of the Convention.

87. Moreover, as part of the general training in years 2014–2017, Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedom was discussed, stating that nobody can be subjected to tortures or inhuman or humiliating treatment or punishment.

88. KSSiP evaluates trainings on the basis of anonymous evaluation surveys filled by the participants of trainings after their completion, and its aim is to assess the substantive and organisational side of the training.

89. The National Prosecutor's Office, in consultation with the National Police Headquarters, organises cyclical trainings with participation of prosecutors and officers of the Office of Internal Affairs of the National Police Headquarters, dedicated to the methodology of conducting investigations against officers and employees of the Police. During these trainings a representative of the National Prosecutor's Office presents and discusses results of the examination of files of criminal cases for crimes under Article 246 *Kk* and Article 247 *Kk*. The trainings are focused mainly on the methodology of conducting proceedings for acts committed by the Police officers. they also cover the methodology of proper and efficient protection of evidence in such proceedings, teach methods of emphatic and proper interrogation of witnesses, especially, victims.

90. Guidelines of the Prosecutor General of 27 June 2014 on prosecutors' conduct of proceedings for crimes related to deprivation of life and inhuman or degrading treatment or punishment, perpetrated by the Police officers or other public officials, are still in force. They were issued in order to effectively and promptly investigate reported cases and complaints concerning torturing and inhuman treatment of imprisoned persons. According to the guidelines, the prosecutor personally records a crime report and interrogate the reporting persons as a witness, prepares a plan of investigation or investigation activities, ensuring proper dynamics of investigation and concentration of evidentiary proceedings. Particular activities may be entrusted to the Police or other authorised services only in exceptional cases and to a limited extent. As a general rule, key activities are carried out by the prosecutor. The superior prosecutor is immediately notified of investigation, and superior units of the prosecutor's office control the correctness and the efficiency of the conducted procedure, as well as the correctness of internal supervision as part of cyclic inspections.

Prison Service employee trainings

91. Professional development of the Prison Service includes trainings and workshop on issues such as counteracting xenophobia and various forms of discrimination, among others, based on nationality, race, religion, physical and mental disability, health, addictions, etc. in addition, an e-learning materials entitled "Communication with a troublesome prisoner is available". The issue of proper treatment of people presenting the above deficits discussed as part of stationary training. During classes officers practice their abilities to handle different peoples respecting their humanity, the, rule of law and tolerance.

92. A one-day workshop entitled: 'Communication and methods of solving difficult situations concerning the contact with the prisoner', which helps to develop, e.g. the ability to adjust the message to the recipient.

93. A professional training covers also "International standards of handling persons deprived of freedom". The goal of the training is also to emphasise the way in which officers should respond to radicalisation, acts of terrorism, different sexual orientation, domestic violence, cultural diversity, different worldviews, different nationality and other differences. As part of classes like "penitentiary diagnostics", "psychosocial aspects of isolation" and "methodology of penitentiary measures" students taking part in the training for the promotion to the first officer rank of the Prison Service learn how to design penitentiary measures used against disabled persons and foreigners.

94. An umbrella programme for health service includes workshops focused on handling the physically and mentally disabled persons and alcohol and drug addicts, persons with

HIV/AIDS, persons refusing to eat and persons who self-harm. Important issues are raised in the field of issues concerning ethics and deontology of the profession of nurse and physician, including rights of the hospitalised prisoner and obligations of the physician and the nurse. These principles are formulated in "The Manual of effective investigation and documentation in cases concerning use of torture and other inhuman or degrading treatment or punishment".[23]

95. Furthermore, professional development training for prison service employees includes topics such as: on the prisoner's right to health care, in view of European Prison Rules.

96. Pursuant to the Act of 24 May 2013 on coercive measures and firearms, the Prison Service no longer has rights to use coercive measures in the form of electroshock weapons. Officers may use non-penetrating missiles. From 1 January 2014 to 31 July 2017 no use of non-penetrating missiles was recorded.

97. A training of the medical personnel of the Prison Service is conducted as part of a professional training of physicians, dentists, nurses and midwives, pharmacists and other health professionals. The issues concerning making officers and health care employees aware of human rights, their familiarisation with acts of international law, rulings of the ECHR and national jurisdiction are implemented on various levels of education.

Trainings for the Police and the Central Anticorruption Bureau (CAB)

98. The respect for dignity of each person and ban on using tortures, cruel or degrading treatment are a fixed and regular element of the Police and the CAB education. *Rules of professional ethics of police officers* introduced by the regulation of the General Commandant in 2003 are still used. In 2013, they were supplemented by a provision that, in case of observing any improper behaviour or suspicion of such behaviour, the police officer may notify major superiors of this fact, without being disciplined for not observing the chain of command. In 2013, the Police General Commandant ordered that in the event that an officer or an employee of the Police observes abuse (or suspected abuse) of rights by another police officers, which constitute, e.g. act of torture, cruel or degrading treatment, the officer or the employee of the Police may notify major superiors or the Internal Affairs Bureau of the National Police Headquarters of this fact, without being disciplined for not observing business route.

99. In addition, as part of prevention of violence in the police environment, teaching staff of police schools is aided in this respect by representatives the Internal Affairs Bureau of KGP, which, during classes with participants of professional training (basic), present to each of them a guidebook prepared by the Bureau, focused on the issues of responsibility for use of violence while being on duty and obligation to counteract such behaviour.

100. As part of the basic course officers of the CAB undergo trainings entitled "Professional ethics of officers and protection of human rights".

101. In 2016 a guideline document or for protection of human rights was implemented — entitled: "*The main directions of educational-informational operations with regard to protection of human rights and liberties and strategies of equal employment opportunities in the Police for the period of 2016–2018*". As part of these fields of study the officer learns, among others, practical aspects of protection of so-called signallers and challenging a conspiracy of silence in the police environment, as well as effective response to notified and presumed cases of tortures and other forms of cruel or degrading treatment or punishment. The issue of tortures is discussed during training courses conducted by police representatives for protection of human rights entitled "Human rights in the Police management". Police schools have a specialised training guidebook entitled "To serve and protect", which supports the teaching process focused on developing desired attitudes and behaviours of officers' training programme entitled "Counteracting the use of tortures" is also implemented — in all police units from October 2017. The Early Intervention System functioning so far is substituted by "the Pro-Active Superior Workshops".

[23] The manual is available on open-access educational platform of Training Centre of Prison Authorities in Kalisz.

102. In the event of a reasonable suspicion of police torture, so-called post-incident actions are immediately taken, based on the analysis of the event, prophylactic activities taken by the management of a given unit, drawing personal consequences and then launching appropriate training workshops.

103. As part of the *Strategy of actions to counteract violation of human rights by police officers an active attitude of police officers* towards prevention of abuses of rights is developed by improving procedures for selection of candidates, professional training and development process, prevention, as well as mechanisms evaluating the service and the supervision of superiors. *The Compendium of Civil Rights "What may a policeman do and what can do I?"* is prepared on the initiative the Police General Commandant Representative for Protection of Human Rights.

104. Appendix no.10 describes two cases, concerning acts committed with the use of taser by policemen.

105. The CAB employs an instructor having rights to train people with regard to use of electroshock weapons. No electroshock weapon was used throughout the 10-year history of the operation of the CAB.

106. As regards the use of electroshock weapons by police officers, it should be noted that the Police General Commandant issued on 12 August 2013 a decision *on the programme of a specialised course for instructors with regard to use of electroshock weapons*, which was replaced by decision *no. 352 of the National Police Headquarters of 24 October 2016*. According to these *decisions* only school polices were obliged to conduct this course. As part of this course police officers improve their skills related to first aid, safe and lawful use of a device, its maintenance and storage. According to the current regulations, participants of the course must complete, among others, a two-year internship with regard to use of tasers, a tactical and intervention techniques instructor course, or a shooting course.

107. Based on the content of the aforementioned decisions, a local professional training programme on the use of electroshock weapons, they may be conducted only by certified instructors competent in the field of use of electroshock weapons.

Trainings of the Border Guard

108. Six editions of workshops entitled "Identification of people belonging to sensitive groups (victims of human trafficking, people with PTSD or psychical disorders) in the context of implemented administrative procedures" were conducted in the years 2015–2016. The objective of the workshops was to increase skills of officers and employees (also psychological staff) of SG with regard to identification of people belonging to sensitive groups. They were focused on people placed in guarded centres for foreigners, who are vulnerable as that they may be victims of violence, tortures, rapes and other severe forms of mental, physical or sexual violence. The workshops were implemented in the SG Specialised Training Centre in Lubań. 132 officers attended.

109. In addition, in order to improve qualifications of SG officers and health care personnel in identification of victims of torture and violence, a special training was organised in 2017 in cooperation with UNHCR. Subsequent sessions were dedicated to detection and documentation of physical and mental consequences of torture with the use of the Istanbul Protocol. These trainings are conducted by one of the members of the CPT. The training is addressed to officers who handle international protection applications, work in guarded centres for foreigners, as well as for BG physicians.

110. BG also joined the project entitled "I notice, I help — integration and development of OFF activities and procedures with regard to identification of vulnerable persons applying for international protection on the territory of the Republic of Poland". It includes preparation of a series of specialist trainings for both BG officers and medical personnel and psychologists who examine foreigners placed in guarded centres. The training will cover identification of victims of torture and other inhuman or degrading treatment with the use of the Istanbul Protocol.

111. BG officers also participate in trainings on issues of the use of coercive measures, including electroshock weapons (tasers). The following trainings are planned for next years:

- "Use of electroshock weapons — tasers" — 4 training editions for 47 SG officers. Main teaching methods applied during classes include a strict imitation method, a strict task-based method, lectures and classes. The course consists of 14 classes and lasts for 2 training days;
- "Techniques of coercive measures use by SG officers" — 4 editions of courses for 77 BG officers.

112. The above trainings are also carried out at the local level as part of a so-called monthly plan for local professional development, which is implemented in each BG unit.

113. As regards the health care personnel cooperating with BG providing care for foreigners placed in guarded centres, trainings on the application of the Istanbul Protocol referred to above are organised in cooperation with UNHCR; the main instructor is a representative of CPT.

Physicians

114. Physicians specialising in forensic medicine prepare specialised reports. Their formal education takes 5 years and ends with the State Specialty Examination. The profession is regulated by the Act of December 1996 on the professions of physician and dental surgeon (Dz. U. of 2017, item 125) the specialisation programme is prepared and updated by a team of experts, taking account of advances in medical knowledge. The purpose of the forensics specialisation programme is for a physician to obtain special qualifications allowing him/her perform the following activities in accordance with the current medical knowledge: i.e. preparation of opinions, participation in visual inspection of the place of event, local inspections, experimental reconstructions, performance of external inspections and forensic dissection in cases of deaths for reasons sudden, preparation of dissection reports and expressing opinions on causes of death and its circumstances, also after exhumation. Physicians complete specialisation internships in pathomorphological, genetic, toxicological and forensics labs. Expressing of forensics opinions includes, e.g. examination of victims, injured persons, suspects, accused persons, sentenced persons, determination of causal links, determination of health impairment, ability to work, determination of exposure to a direct threat of the loss of life or severe damage of health, evaluation of effects of pathologies in the family and reconstruction of the mechanism and circumstances of injuries, including distinguishing changes traumatic lesions from coexisting pathological changes, evaluation of time after injury, as well as inspection and identification of an implement of crime, interpretation of DNA results and identification of biological traces.

115. In addition, the sexology specialisation programme provides training for doctors in the scope of: classification, diagnostics, treatment and evaluation of legal aspects of rape, sexual violence and domestic violence, as well as education with regard to issuing sexologist's opinions in criminal and civil proceedings.

116. Some of specialisation training programmes and qualification courses for health personnel working with detainees contain the contents relating to prevention, recognition and response to cases of violence, i.e.:

- Nursing: long-term care, pediatric, psychiatric, medical rescue, family (nurses and midwives), gynaecologic, obstetric, neonatological and neurological nursing;
- Nursing: long-term care, paediatric, family (nurses and midwives), and psychiatric nursing.

117. In addition, the following programmes on issues related to domestic violence are available:

- A specialisation in the field of occupational health (handling stress, aggression, professional burnout syndrome;

- A qualification course in t' e field of rescue nursing (suicides, addictions, sexual pathologies, aggression and social exclusion as social problems discussed in the context of emergency medicine).

Answer to question 18 — Pre-trial detention

118. Information on binding procedures to ensure compliance with Article 11 CAT, to provide in the previous Report are still up to date.

119. The following regulations concerning remand have been amended since:

- Article 73 *Kpk* — by specifying that cases in which the prosecutor reserves right the to be present during the conversation between the remanded person and his/her defence attorney shall be dictated exclusively by the best interest of the preparatory proceedings. The same reasons were given for the right to control the correspondence between the suspect and his/her defence attorney;
- Article 249 *Kpk* by introducing the obligation to include a court-appointed attorney in a hearing on extension of remand and examination of a complaint against remand or its extension in any case in which a relevant request is submitted by the accused who has no legal representation;
- Article 249a *Kpk* "The provision" in its primary version stipulated that the basis for the ruling on remand or extension of remand can include only determinations made based on evidence disclosed to the accused and his/her court-appointed attorney. In 2016 this provision has been changed and now accepts a situation in which the basis of the ruling on remand or extension of remand also are testimonies of witnesses not made available to the accused due to a well-founded fear that this information will pose a threat for life, health or liberty of the witness or his/her relatives;
- In Article 250 *Kpk*, the following §2a and §3a are added and §3 is amended:
    - §2a requires to indicate in the application of pre-trial detention evidence suggesting a high probability of the defendant committing a crime, circumstances indicating the existence of threats to the proper conduct of proceedings or a possibility of the defendant committing a new, serious crime and a specified rationale for the use of this preventive measure and the necessity of its application;
    - §3 and 3a requires to inform the suspect of his rights in the application of pre-trial detention;
- In Article 250 Kpk — in this article, a new §2b is added, according to which in case there is a justified fear for the safety of life, health, freedom regarding the witness or his next of kin, the prosecutor shall attach to the application referred to in §2a, in a separate set of documents, evidence from a witness's testimony which is not made available to the defendant and his counsel;
- Article 251§3 Kpk, ordering to demonstrate in the justification for the use of preventive measure, circumstances indicating the existence of threats to the proper conduct of proceedings or a possibility of the defendant committing a new, serious crime in the event of non-compliance with this preventive measure, the basis for its application and the need for the application of this measure;
- Article 252§3 Kpk, adding a time limit for examining the complaint against pre-trial detention. In accordance with that new provision the complaints should be examined no later than within 7 days from the date of transmission of the compliant to the Court along with necessary files;
- Article 257§2 Kpk allowing extension of time for submission of bail bond (on a reasoned application by the defendant or his counsel) whose application results in a conversion of pre-trial detention into another coercive measure;
- Article 260 Kpk, includes mental hospital where the defendant can be placed for the purpose of executing pre-trial detention;

- Article 263§8 Kpk includes a model recommended by the Minister of Justice of a "Letter of Rights" for the defendant in case of pre-trial detention;
- Article 263§4b Kpk, pursuant to which pre-trial detention is not extended for more than 12 months, if the custodial sentence does not exceed 3 years, and to more than 2 years when the custodial sentence does not exceed 5 years, unless there is a danger of purposeful stalling of proceedings by the defendant;
- Article 264§3 Kpk limiting the possibility of applying pre-trial detention until commencement of enforcement proceedings of the preventive measure involving placing the offender in a secure institution for up to 3 months with the possibility of a one-off extension of one month in particularly justified cases;
- Article 212 Kkw by streamlining the principles for temporary detention to the suspects posing danger to society or serious threat to security of his arrest (provisions of Article 88a§1 and 2 Kkw;
- The Article 214a Kkw was added, pursuant to which the detainee or a detainee referred to in Article 212a§1, was examined by the health commission or received medical treatment d in the presence of an officer who is not a medical practitioner. Medical treatment may be provided to a temporarily detained person by an officer who is not trained medical care provider;
- In Article 215Kkw, §1 is amended and §1a is added. In §1a detainee was given a right to communicate with a non-attorney or a legal advisor who was approved by the President of the Chamber of the European the Tribunal of Human Rights to represent the convict before this Court, in the absence of others and correspondence. Pursuant to the new §1a, if a detainee is a citizen of a foreign country, he or she has the right to communicate with the competent consular post or diplomatic representation, and if a detainee has no nationality — he or she has the right to communicate with the competent representative of the state in which she or she resides under terms referred to in paragraph 1a;
- The Article 217b§1 Kkw was added, pursuant to which a detainee's correspondence with a lawyer or attorney who is an advocate or a legal advisor are not sent through the authority at whose disposal (a detainee) remains, but shall be sent directly to the addressee, unless the authority at whose disposal (a detainee) remains, is particularly justified cases, or rules otherwise;
- Article 217c Kkw, prior to the change a detainee was unable to use the telephone and other wired and wireless means of communication. After change those principles are as follows: Section 1. The person under pre-trial detention:
    - May use the telephone, subject to §2 and 3, in accordance with the rules specified in the Organizational Regulations for the implementation of pre-trial detention, with the consent of the authority concerned;
    - Cannot use other means of wired and wireless communication;
- Section 2. The authority at whose disposal (a detainee) remains, issues a consent to use the telephone, unless there is a legitimate concern that it will be used:
    - To illegally obstruct the criminal proceedings;
    - To commit a crime, in particular to incite a crime;
- Section 3. In case when the detainee remains at the disposal of several bodies, the consent of each of them is required, unless otherwise ordered by the authorities;
- Section 4. The detainee is entitled to appeal the court's refusal to give a consent to the use the telephone. The complaint issued as to a prosecutor's order is examined by the superior prosecutor;
- Article 221 Kkw, by changing award possible to provide the detainee with a distinctive compliance with the internal order in the detention centre and the principles specified in the Organizational Regulations for the implementation of pre-trial detention. The award is to be allowed to receive additional food package or to receive packages more frequently, instead of the permission for the additional food package, or receiving food package that exceeds the permitted weight.

Answer to question 19 — Penitentiary system

120. In the period from 1 January 2014 to 21 July 2017, there was no overcrowding in prisons. As of 21 July 2017, the overall capacity of penitentiary units was 81.531 places of accommodation, of which 78.983 are residential units, and 2.548 are located in: hospitals, branches and cells for dangerous criminals, infirmaries, single mothers' and children's homes and temporary accommodation units. In addition, there are 602 additional places. In penitentiary units there were 73.732 prisoners of which 71.938 resided in residential units which were at 91,1% capacity. See Appendix 11 for details.

121 The Prison Service capacity statistics is not broken down by sex, age, ethnic origin or nationality.

122. Without doubt, incarceration is the most severe penalty. However, people sentenced to less than a year may be granted permission to serve in less rigorous manner such as electronic surveillance system. As of 15 April 2016, it became a form of custodial sentence. 2.735 were released to serve a sentence of imprisonment outside the prison through electronic surveillance.

123. Since 2014 the following provisions have been introduced, which reduced the number of incarcerated:

- Article 48a Kkw allows, at any time, for the suspension of the execution of a substitutive custodial sentence (ordered when the convict does not agree to perform socially-useful work into which the fine was converted under Article 45 Kkw), if the convict declares in writing that he/she will perform socially-useful work and will be subjected to the rigors associated with it. Suspension shall continue until the completion of socially-useful work or the payment of the remainder amount of money directed to be paid as fine;
- Article 65a Kkw allows, at any time, for the suspension of a substitutive custodial sentence, if the convict declares in writing that he/she will serve a sentence of imprisonment and will be subjected to the rigors associated with it from which since then evade;
- Article 75a Kk — enables ordering the execution of the penalty of restriction of liberty, instead of ordering the execution of the penalty of depravation of liberty (if objectives of the penalty are fulfilled) towards the person sentenced to depravation of liberty with conditional suspension of its execution, who in the probation period flagrantly breaches the legal order, or evades from payment of fines, from supervision, execution of the imposed obligations or adjudged penal means, compensatory measures or forfeiture;
- Article 37a Kk — enables ruling of a fine or a penalty of restriction of liberty, always when the Act envisages the penalty of depravation of liberty not exceeding 8 years. The predecessors of this provision was the repealed Article 58§3 Kk, which allowed it in relation to crimes subject to penalty of depravation of liberty not exceeding 5 years;
- Article 37b Kk — enables ruling (in the case concerning an offence subject to penalty of depravation of liberty) at the same time the penalty of depravation and restriction of liberty (the penalty of deprivation of liberty in aspect not exceeding 3 months, and if the ceiling of the statutory penalty amounts to at least 10 years–6 months). A penalty of restricted liberty is adjudged in aspect to 2 years;
- There were two reforms of the electronic surveillance system.

124. Furthermore, the Prosecutor's Office pays special attention so that the periods of temporary detention and time of conducting each preparatory proceedings were as short as possible. For this reason, the National Prosecutor's Office conducts constant monitoring of cases in which the period of temporary imprisonment lasts for more than 1 year. This allows to control efficiency of the proceedings On 7 November 2013, the General Prosecutor issued *The Guidelines on Substantively Complex Proceedings*, which determined the principals of efficient conducting preparatory proceedings. These guidelines were supposed to remove irregularities, consisting of groundless extension of the

proceedings, and periods of temporary detention. It should also be indicated that the regional prosecutor's office conduct monitoring of the cases in which the period of temporary arrest exceeded 9 months. The National Prosecutor's Office is provided with the current information on proceedings where the period of temporary detention exceeded 1 year.

125. See Appendix no. 12 for statistics on preventive measures.

Answer to question 20 — Depravation (deprivation) of liberty among people from vulnerable groups

126. In order to execute the recommendations concerning minors placed in the police places of legal isolation, bearing in mind the rights and liberties attributable to this particular group of persons, an amendment of the Regulation of the Minister of Internal Affairs of 4 June 2012 on *premises intended for persons retained or surrendered for detoxication, transitional premises, temporary transitional premises and the police minors detention centres, the regulations concerning stay in these premises and centres and the method of handling records of image from these premises, rooms and centres was introduced in 2017 to* facilitate immediate contact with a parent, custodian or advocate.

127. The Police has also undertaken actions focused on gradual adjustment of premises for people detained or surrendered for detoxication (PdOZ) so there will be at least one PdOZ within each the Police garrisons, meeting the technical conditions enabling independent functioning therein persons with motor disability or moving on wheelchairs. Currently in Poland, there is 14 PdOZ adapted for the needs of persons with motor disability, including those moving on wheelchairs within 12 the Police garrisons.

128. Currently, there aren't so-called isolation rooms in Police detention centres.

129. In case of convicted juveniles, the priority is to place them in rehabilitation facilities with obligatory schooling for those under 18 so that they can re-enter a productive social life when released.

130. The sentenced juveniles are the only ones, who obligatorily serve the sentence of depravation of liberty in the system of programmed impact. Regulations also indicate the priority in sending them for education, if they have not graduated the primary school or do not have a profession.

131. Women serve prison sentences in separate facilities than men. The principle is that a sentenced woman serves it in the penitentiary facility of half-open type, unless the degree of depravation or safety considerations indicate serving of the penalty in the penitentiary facility of another type.

132. Convicted pregnant women and mothers form a special group and enjoy benefits such as the right for longer walks, the possibility of making additional (over normative) purchases of foodstuffs, disciplinary penalties are not applied against some women (the penalty in the form of placement in an isolating cell, depravation of the possibility to receive food packages and the possibility to purchase of foodstuffs).

133. The convicted pregnant woman may decide to bring up the child, in the prison House of Mother and Child, may decide to entrust the custody to the father, state Children's Home, into the custody of a family or a foster family, or may give it up for adoption. The mother makes her decision in writing at child's birth.

134. The child may remain with the mother until the age of 3 unless educational or health reasons, confirmed by the opinion of a doctor or psychologist, state for separation the child from its mother There are two houses for mother and child (in Grudziądz and Krzywaniec) in the Polish penitentiary.

135. There are special provisions[24] regulating the needs of incarcerated people with special needs, in order to guarantee discrimination. They enforce the World Health Organisation (WHO) mandate, that the disabled person is understood as such who may not independently (partially or entirely) ensure themselves the possibility of normal individual and social life as a result of congenital or acquired handicap of physical or mental fitness. Detention of the disabled should be conducive to their social integration and more independent life. In particular, the following needs were included:

- Increasing the awareness of the convicts concerning the proper treatment of the disabled, respecting their special needs and acceptance;
- Taking actions aiming at reducing the prejudices and stereotypes towards the disabled;
- Active incorporation into the rehabilitative programmes and cultural and educational classes, available for all of the convicted;
- Covering with employment, vocational training and enabling participation in sports classes, taking into consideration any medical indications concerning the health condition;
- Organizing occupational therapy for the disabled, if possible;
- Supporting the linguistic identity of deaf persons by creating the possibilities to learn sign languages;
- Organizing vocational courses for the sentenced guardians of disabled persons;
- Cooperation with institutions and non-governmental organizations whose activities aim at helping disabled persons.

136. In 2016, there were 22 therapeutic units for persons with non-psychotic mental disorders or mentally disabled persons in prisons and detention centres.

137. With regards to the current policy on solitary confinement and the use of coercive measures against prisoners": a disciplinary penalty of solitary confinement can be imposed on the convict who has committed a serious violation against the discipline and order in prison. Usually, it involves aggressive behaviours towards inmates or superiors and repeatedly committing violations and not being subjected to the other reformative influences. The penalty of solitary cellular confinement is rarely used and limited to instances of particularly serious violations.

138. A doctor's (psychologist's) note is required before the penalty is imposed.

139. During the execution of a penalty, prison officers and employees control the ability of the convicted person to serve a sentence. A common practice is a suspension of the penalty for a period of up to 3 months, as well as remission of part of the penalty if it has brought about the desired educational effect, i.e. the convict understands the consequences of repeating the same offences. In most cases, the above penalty is 14 days imprisonment, therefore, it has a short duration. According to Article 146§2 Kkw, re-imposing of a disciplinary penalty cannot take place in such a way to be a direct extension of serving the same sentence, unless the total period of time imposed does not exceed the time limit of that penalty. The decision on the imposing a disciplinary penalty shall be issued in writing and announced to the convict — Article 144§4 Kkw. In the case of submitting by the convict the complaint about imposing such a penalty (the convict shall be informed of that right by the prison director or a person authorized by him) the above decisions shall be made available to the penitentiary supervisory authorities for examination of their validity.

140. Pursuant to the Act of 24 May 2013 regulating the use of coercive measures and firearms towards evidently pregnant women, and those who look no older than 13 years of age or whose motor functions seem to be handicapped, prison officers can only use physical force in the form of incapacitating techniques.

[24] Regulation no. 19/16 of the General Director of Prison Authorities of 14 April 2016 on the detailed principles of conducting and organization of penitentiary work and scopes of activities of officers and employees of penitentiary and therapeutic departments and penitentiary units.

141. In respect of the implementation of personal checks, the last change of regulations clarified the way of they were carried out. The existing regulations were general and were included in the provisions of the Kkw, (Article 116§3). The Ordinance of the Minister of Justice of 17 October 2016 on means of protection of organizational units the Prison Service introduced precise regulations.[25]

142. The changes in Kkw concerning inmates posing a serious social threat or a serious threat to the security of the prison staff were also introduced. Earlier regulations required, inter alia, subjecting of inmates to personal inspections after each leaving and returning to the cell (Article 88 b § 1 of the Kkw). Currently, the penitentiary commission may find, that it is not necessary to use all specific conditions of imprisonment by this category of inmates (e.g. personal inspection after each leaving or returning to the cell) and may derogate the use one or more of them (Article 88b § 2 Kkw).

Answer to question 21 — Violence among prisoners

143. In prisons and detention centres where approximately 74.000 of prisoners are currently living, there are cases of violence and aggression among prisoners. The Prison Service do not remain indifferent to such situation, especially because the high level of aggression in relations between inmates adversely affects the process of social rehabilitation. Number of violent incidents among prisoners in 2014–2016:

	2014	*2015*	*2016*	*Until 30 June 2017*
Rape	1	0	1	1
Abuse	31	26	34	15
Fights and beating	875	987	1 009	546

144. Each of these incidents is being investigated by the Prison Service. From the discovery processes a report was prepared containing the circumstances and the course of event and actions taken after the event, and its causes. The applications for irregularities are also formulated in order to avoid such incidents in the future.

145. The compilation of collected data extracted from complaints concerning treatment submitted by the inmates is presented in Appendix no. 13.

146. Regulations introduced in 2016[26] regulate the statutory role and responsibilities of officers regarding cases of disclosure of violence between inmates. Procedures for prevention of aggression include, i.a., recognizing the symptoms indicating predisposition to being a perpetrator or a victim of violence and in the event of recognizing such symptoms, formulating of further recommendations, instructing prisoners about hazardous situations and ways of responding to these situations, the disciplinary and criminal

[25] §68. Body search is conducted as follows:

- The prisoner empties their pockets, removes their footwear, clothing and underwear;
- Footwear, clothing and underwear undergo control;
- Officer holds an examination of the oral cavity, nose, ears, hair as well as examination of the body;
- Examination of the body may also consist in bending or crouching in order to check areas of anus and genitalia;
- During the examination the prisoner should be partially clothed; first, the officer controls a part of clothes and before control of the following part, the prisoner can put on their clothes;
- During the examination officer should not touch the prisoner.

[26] Regulation of the General Director of Prison Authorities No. 19/of 14 April 2016 on the detailed principles of conducting and organization of penitentiary work and scopes of activities of officers and employees of penitentiary and therapeutic departments and penitentiary units — the details that have been defined there are, among others, actions, which should be immediately undertaken after admission of the prisoner to the institution or during serving the custodial sentence and temporary detention necessary to prevent mutual depravation and negative behaviors of the prisoners.

consequences for participation in crime events, the impact of negative behaviour on the assessment of progress in the social rehabilitation process of the convicted person and keeping track of progress in opinions about the convict prepared for the benefit of competent bodies. In practice, dealing with perpetrators of violence, after determination of its the course of and notifying, begins with imposing disciplinary penalty and then undertaking impacts rehabilitative in order to corrections aggressive behaviours by participation in group programs rehabilitative preventing aggression and violence and through individual work of with an educator and a psychologist over a shortage in this respect.

147. As part of the training of the penitentiary staff, since 2011 the methodological workshops on prevention of events that may occur in Prison Service are organized. The classes are dedicated for educators who have no more than 5 years of service in the penitentiary department.

Answer to question 22 — Deaths in prisons

148. In 2014–2017 all units of the prosecutor's office conducted preparatory proceedings in cases concerning 93 deaths in prisons. In 56 cases, death was caused by illness, whereas in 36 cases the cause of death was a suicide attack. In one case, a prisoner died as a result of other inmate's action, who was charged with murder under Article. 148§3 Kk. All deceased persons were Polish citizens, one death involved a woman (cardiopulmonary insufficiency and the acute myocarditis was attributed as the cause of death). Taking into account the age of the deceased:

- 4 persons aged 20–30;
- 44 persons aged 30–50;
- 41 persons aged 50–70;
- 4 persons aged above 70.

149. Statistics on deaths in prisons provided by the Prison Service are presented below:

Cause of death	*2014*	*2015*	*2016*	*Until 30 June 2017*
Total	**107**	**105**	**123**	**68**
In this therapeutic facility beyond prison or detention centre	27	28	31	
death by natural causes	75	79	93	
death caused by self-injuring	26	23	24	
other	6	3	6	

150. The Prison Service does not collect the data concerning deaths of inmates according to the place of detention, sex, age, ethnic origin or nationality, as well as the data showing the adjudged compensation for relatives of such persons.

Answer to question 23 — Complaints and investigations related to torture

The Prison Service

151. The Prison Service collects data on the number and the methods of handling complaints examined by its particular bodies, submitted by the inmates themselves and complaints filed in cases involving them. In addition, quantitative data is collected concerning the subject of charges contained in the complaints and the methods of their examination. No data on sex, age, racial or ethnic origin and places of detention is processed with regard to persons submitting complaints concerning inappropriate behaviour of the Prison Service officer.

152. No complaints regarding the use of torture were reported in the discussed period, contrary to complaints with regard to improper treatment by the officers or employees of the Prison Service. Appendix no.14 presents statistical data relating to complaints concerning inappropriate treatment in penitentiary establishments and custody suites.

Police

153. Complaints examined by control offices/departments are classified according to the catalogue of complaint categories applied by the Police since 2009, where the 1st category of complaints are complaints concerning *Inhuman or degrading treatment*. This category covers also complaints concerning: use of prohibited physical methods (physical violence), using coercive measures, psychological violence (intimidation), forced testimonies, explanations, information, statements, harassment and rape, conditions in rooms for detainees or in drunk tanks, in emergency youth centres, in custody suites, discrimination and other inhuman or degrading treatment. Collected statistical data do not provide possibilities to specify the category of charges, since their thematic scope is wide and includes all cases of use of prohibited physical methods, including physical violence and forced testimonies, explanations, information or statements by the Police.

154. Issues concerning charges for abuses of the 1st category and abuses of the 2nd category *Violation of the right to freedom*, which is also included in the catalogue of complaints, are being continuously monitored by departments of the Police responsible for handling complaints. The Commissioner for Human Rights also handles the above issues.

155. 1 August 2014 was the effective date of decision no.95 of the Minister of Internal Affairs of 10 July 2014 *on introducing "Guidelines with regard to principles and mode of transferring complaint and non-complaint information by the Police and Border Guard to the Office of the Commissioner for Human Rights and the Ministry of Internal Affairs" to be used by the Police and the Border Guard. According to the Proceaure of transfer of complaint and non-complaint information by the Police to the Commissioner for Human Rights* approved by the Police General Commandant, the Control Department of KGP transfers information about repeated 1st and 2nd category complaints and non-complaint information to the Office of the Commissioner for Human Rights, as well as to the Ministry of Internal Affairs.

156. Statistical data in the concerned scope are collected by the Control Department of KGP annually (in the first quarter of the next year) on the basis of which reports are prepared, containing also information about charges concerning women and children. The number of charges filed by the appellants are presented in the table below. However, the presented the number of charges should not be identified with the number of complaints, owing to the fact that filed complaints may include more than one charge.

	Number of charges included in complaints handled by the Police on its own, the 1st category Inhuman or degrading treatment		
Year	*Total*	*Including charges concerning women*	*Including charges concerning children*
2014	1 214	300	23
2015	1 407	322	30
2016	1 048	293	21

157. A conclusion may be drawn from the own data of the Office of Internal Affairs of KGP concerning explanation of notifications on the use of violence by police officers on duty that the following numbers were recorded for investigations conducted with participation of officers of the Office of Internal Affairs of KGP in the period 2014–2016:

Data of the Office of Internal Affairs of KGP	*2014*	*2015*	*2016*
Suspected police officers	45	34	38
Filed charges	58	70	53
Police officers under indictment	35	29	25

The Prosecutor's Office

158. The National Prosecutor's Office monitors cases for crimes under Article 246 *Kk*, Article 247 *Kk* and crimes related to deprivation of life, committed by officers during or in connection with performing their duties. As part of the conducted monitoring the regional prosecutor's offices transmit information about the above cases on a current basis, after initiating the investigation. This category of crimes includes not only crimes under Article 246 and 247 *Kk* but also crimes under Article 231§1 *Kk* concurrently with other articles *Kk*, e.g. Article 156§1 and 2 *Kk*. Statistical data in Appendix no. 15.

Border Guard

159. Appendix no. 16 describes complaints of foreigners against "tortures or other inhuman or degrading treatment" recorded in the Border Guard in the period 2014–2017.

Courts adjudications

160. Appendix no. 17 presents the statistics concerning sentences for crimes under Article 246 *and* 247 *Kk*.

Answer to question 24 — Investigation of facts of acts of torture

161. Poland implements an effective mechanism of examination of complaints of imprisoned persons. It is guaranteed by the Constitution in Article 63.[27] It is the most universal standard for complaint procedures.

162. According to the regulations of *Kkw* the convict may submit applications, complaints and requests to the bodies executing the decision (all institutions regulated in the Kkw — penalties, punitive measures, preventive measures resulting in deprivation of freedom, regardless of the mode of actions and the nature of the authority, which the complaint applies to). These provisions stipulate a more detailed procedure concerning complaints, requests and applications related to the legal position of persons held in penitentiary establishments and custody suites, as well as a number of restrictions comprising deprivation of personal freedom — Article 102, item 10 *Kkw*, as well as Regulation of the Minister of Justice of 13 August 2003 on the methods of handling applications, complaints and requests of persons held in penitentiary establishments and custody suites, issued on the basis of authorisation provided for in Article 249§3 item 3 *Kkw*.[28]

[27] This provision states that everyone has the right to submit petitions, requests and complaints in the public, personal or another person's interest, with their approval to public authorities, as well as social organizations and institutions in connection with commissioned tasks regarding public administration.

[28] Submissions, complaints and requests of inmates may be submitted in writing, including using fax, e-mail, as well as - verbally for the record. With regard to impartiality of discovery activities regulation envisages that complaint concerning a person indicated therein cannot be transferred to examine to this person to or person towards which they remain in relation of professional precedence (§4 of the Regulation). If a manager of an organizational unit is not competent to handle the application, complaint or request, he shall transfer it immediately, no later than within 7 days from the date of receiving, to the competent authority, at the same time notifying the party submitting the complaint.

Dealing with the complaint is a set of preparatory activities aiming at determination of the content and the object of a complaint and for preparation of the necessary material, to handle the complaint. In relation to letters that do not require collecting such material and examination of the acts, the issue should be handled without unnecessary delay, however, no later than within 14 days. In complicated cases, when it is required to collect evidence, information or to conduct explanatory procedure and

163. Each regional and district prosecutor's office employs a coordinator for crimes committed by the Police, who supervises and monitors such cases. As part of the conducted monitoring, the regional prosecutor's offices are obliged to transfer information about such proceedings on a current basis, after initiating investigations. This information contains data concerning the unit in charge, reference numbers and the subject matter of the case, a short description of an act, along with the legal classification. Periodical, mid-year examination of files are also conducted, in order to verify the correctness of the conducted proceedings and the justified character of the decision. The prosecutor's offices were also obliged to send official notes documenting conducted file examinations along with the resulting conclusions until 15 February and 15 August each year.

164. Persons under remand have the right to lodge complaints concerning conditions of remand, they may also, at every procedure's stage, apply for a change or repeal of the preventive measure. If the arrested person states that the conditions of detention compromise his/her health or that provided medical care is improper, or the custody suite's personnel or an inmate behaves improperly, the prosecutor should examine these circumstances and, if they are confirmed, may apply to the General Director of the Prison Service for permission to change the penitentiary establishment, notify The Director of confirmed violations or take other actions, depending on circumstances of a given case. If there is a suspicion of the act under Article 247 *Kk* the prosecutor initiates the preparatory proceedings. It is important that the correspondence of the remanded persons addressed to his/her defence attorney, court, the Commissioner for Human Rights, etc. should not be censored by the prosecutor.

Answer to question 25 — Secret CIA prisons

165. The Regional Prosecutor's Office in Kraków conducts investigation with case ref. no. PR II Ds. 16.2016 concerning abuse of power by public servants in different towns in the Republic of Poland in the period of 2001–2005 by enabling places of detention to be established in Poland, where persons suspected, after 11 September 2001, of terrorist activities, i.e. acts under Article 231§1 *Kk* and Article 189§2 *Kk* in connection under Article 11§2 *Kk*, were detained — with violation of legal regulations — for more than seven days and other. Currently, classified activities are conducted, whose subject matter cannot be announced, e.g. hearing of witnesses regarding circumstances covered by secret. As a consequence of the final refusal to grant legal assistance by the US party, the ability to obtain evidence was significantly limited. It is connected not only to ex officio proceedings, but also to the vast scope of the right to adduce evidence. Requests for international legal assistance addressed to relevant authorities of Romania, United Arab Emirates and Great Britain have not been granted.

166. It is important that attorneys of victims have access to the entire non-classified evidence, as well as documentation collected in the Confidential Office of the Regional Prosecutor's Office in Kraków. Therefore, attorneys of victims have full knowledge about the conducted proceedings and are allowed to take active participation in activities.

Answer to question 26 — Compensations

167. In Poland the General Attorney is still the authorized institution to represent the State Treasury in court. From 2014 until now about 14,000 new civil matters were received

examine the acts, the deadline to handle complaint can be prolonged by the time necessary to perform these activities. The party submitting the complaint shall be informed in writing about the prolongation.

In particularly justified cases the complaint is recognized directly in the place of the event with the participation of representatives of the unit superior over organizational unit the complaint applies to. The authority competent to handle the application, complaint or request is obliged to notify in writing the party submitting the complaint about the method of its handling. If the authority does not endorse the complaint, it is obliged to inform the party submitting the complaint on the possibility of submission of the complaint concerning the way of its handling to competent authority.

by the General Attorney, including those in which responsibility of the State Treasury was associated with activities of the judiciary. In the General Attorney no court rulings where indemnity or compensation from the State Treasury has been ordered in connection with a tort resulting from Article 246 Kk (extortion of confession by a public official) or Article 247 Kk (tormenting a person deprived of liberty) were reported.

168. In Appendix no. 18 statistics concerning adjudged indemnities and compensations for unjust sentence or temporary arrest were presented and in Appendix no.19 statistics concerning granted compensations to victims of some crimes were presented.

Answer to question 27 — Evidence and testimonies obtained under torture

169. Statistical data concerning cases in which charges have been dismissed on account of admission of evidence or testimonies obtained under torture or improper treatment are not collected.

Answer to question 28 — Abortion

Conditions to perform abortion

170. Act of 7 January 1993 on family planning, protection of the human foetus and conditions of permissibility of abortion,[29] hereinafter referred to as: "UPR" stipulates the conditions. The circumstances referred to in Article 4a§1, point 1 and 2 UPR, are ascertained by a different doctor than the one performing the abortion, unless pregnancy poses a direct threat to the woman's life. The circumstance referred to in Article 4a §1, point 3 UPR, is ascertained by the prosecutor. The woman's written consent is required to perform abortion.

171. UPR in Article 4b provides that "persons covered by social insurance and persons authorized to free medical care pursuant to separate provisions, shall be entitled to unpaid abortion in medical institutions". List of guaranteed services related to abortion is specified in Appendix 1 to the regulation of the Minister of Health of 22 November 2013 on guaranteed services related to hospital discharge (Dz.U. of 2016 item 694, amended).

172. Regulation of the Minister of Health and Social Care of 22 January 1997 on professional qualifications of doctors, entitling to perform abortion and ascertaining that pregnancy poses threat to woman's life or health or indicates a high probability of heavy and irreversible disability of the foetus or incurable disease posing threat to its life (Dz.U., item 49) it was specified that abortion can be performed by a doctor holding first degree specialization in the field of obstetrics and gynaecology or the title of a specialist in the field of obstetrics and gynaecology. In addition, the occurrence of circumstances indicating that pregnancy is a threat to life or health of a pregnant woman, are ascertained by a doctor holding the title of a specialist in a relevant are of medicine considering the type of disease of a pregnant woman.

The use of the clause of conscience

173. Pursuant to Article 39 of the act of 5 December 1996 on Medical and Dental Profession (Dz.U. of 2017 item 125, as amended) doctor may refuse to provide medical treatment if it is counter to his beliefs, subject to Article 30.[30] The doctor is under the

[29] According to Article 4a, passage 1 of u.p.r. abortion can only be performed by a doctor, if:

(1) Pregnancy constitutes a threat to life or health of a pregnant woman;

(2) Prenatal diagnosis or other medical premises indicate a high probability of and irreversible impairment of fetus or incurable disease threatening its life;

(3) There is a justified suspicion that pregnancy was an effect of a prohibited act.

[30] To the extent in which it envisages obligation to provide medical assistance in each case when the delay in its granting could cause the danger of loss of life, severe bodily injury or severe health disorder.

obligation to justify this fact and note it in medical documentation. The doctor practising their profession on the basis of an employment relationship or in the service is additionally under obligation to present registered notice in writing to their superior. At the same time, in accordance with Article 14 of the act of 15 April 2011 on medical activity, the entity performing such activity publicises information about the scope and types of provided health care services. This entity, at patient's request, grants in addition, detailed information on provided health care services, in particular information concerning applied diagnostic or therapeutic methods and quality and safety of these methods.

174. The issue of using the conscientious objection clause was the subject of the judgement of the Constitutional Tribunal of 7th October 2015 in the case K 12/14, which, having examined the constitutionality of provisions of Medical and Dental Profession Act, stated that in the light of the Constitution of the Republic of Poland and international legal acts the conscientious objection should be regarded as primary law in terms of its restrictions. Article 39 of the above mentioned Act does not create the privilege for the doctor, because freedom of conscience is the primary value which is only confirmed by constitutional law and international regulations. The freedom of conscience — including the conscientious objection — must be respected regardless of the existence of its statutory confirmation. Therefore, the legislator cannot freely shape or abolish the "privilege" but he must respect constitutional conditions of imposing restrictions of freedom as well as human and citizen rights.

175. An effective legal remedy, inter alia, for women who were refused abortion is the patient's right to oppose doctor's opinion or ruling. The objected is appealed to the Medical Board, attached to the Patients' Rights Ombudsman referred to in Article 31§1 of Patients' Rights Law (UPP). The provision of Article 31§5 UPP grants the aforementioned Board the right to issue a ruling no later than within 30 days from the date of submission of an objection by the patient.

176. It should be emphasized that mechanism of the objection in the present form operates without prejudice to the specific nature and terms concerning issues related to abortion. In the period from 2014 to 31 July 2017 — 3 objections against rulings of doctors with regard to circumstances referred to in Article 4a§1, point 1 and 2 of UPR (Act of family planning, protection of the human fetus and conditions of acceptability of abortion adopted on 7 January 1993) were received by the Patients' Rights Office. The Medical Board considered all of these objections to be ill-founded.

177. Apart from the right to appeal an objection, a pregnant woman whose access to granted service was refused, has the possibility to apply with this issue to the Ombundsman of Patients' Rights who — if the communicated information at least makes violation of patients' rights plausible — may initiate preliminary investigation in this case. All patients can contact Patients' Rights Office via national toll-free helpline 800-190-590. Employees on the call transfer information about granted rights, on what to do in a particular case and indicate granted legal measures on an ongoing basis. The helpline is active from Monday to Friday from 9.00 to 21.00. In the period from 2014 to 31 July 2017 The Ombudsman of Patients' Rights conducted 16 preliminary investigations, initiated on the basis of Article 50–53 UPP.[31] Eight investigations confirmed violation of patient's rights. However none of the aforementioned procedures concerned access to legal abortion because of the reason referred to in Article 4a§1, point 3 UPR, namely because of a reasonable suspicion that pregnancy is an effect of an illegal act.

Answer to question 29 and 30 — Combating discrimination

178. Carrying out investigations and probes in cases involving crime against persons belonging to "vulnerable groups" does not differ from general standards regarding time and way of reaction of prosecuting authorities and of the judiciary. They are treated with the same firmness as other categories of offence.

[31] The content of the appointed regulations — in Appendix no. 20.

179. All hate crimes on grounds of national, ethnic, racial and religious differences (regardless of factors concerning aggrieved party's race, origin, sexual orientation, age, disability) are of particular interest of Public Prosecutor's Office and Police. In order to increase effectiveness of investigations and of protection of the aggrieved's rights, on 26 February 2014 the Public Prosecutor General issued *Guidelines on response and on prosecution of hate crimes*.

180. In the Penal Code there is a catalogue of crimes committed out of racist and xenophobic motives which have been under special scrutiny of the Head Chief of Police since 2013, Local Police units throughout Poland were instructed to monitor closely and react decisively to any symptom of hate crime. in order to understand fully the scale and scope of this Problem, information collected locally is uploaded to central database and analysed in order to plan and execute coordinated response and tackle the problem in a streamlined manner. The information is shared between the Police and other government bodies and Ministries and MGOs.

181. On the initiative of Criminal Bureau of National Police Headquarters since 2014 police officers-coordinators who combat this kind of crime have been appointed in every provincial police headquarters, metropolitan headquarters and national headquarters. They share information and experience concerning hatred crimes and send it to the Criminal Bureau of National Police Headquarters every month. These data are then subjected to analysis. Twice a year Police Headquarters organise official sessions concerning these problems in which coordinators and representatives of the Ministries: of Internal Affairs and Administration and Justice, of the National Prosecutor's Office, of the Office of Patients' Rights Ombudsman, of Internal Security Agency, as well as social organizations dealing with problems of human rights protection and discrimination participate. Since 2015 Criminal Bureau of National Police Headquarters has started organization of cyclic trainings involving the Ministry of Internal Affairs and Administration. These workshops are called "Combating crimes committed of racist and xenophobic motives" addressed to police officers working for investigation cells of criminal service conducting activities in such cases. Training programme disoriented towards legal aspects of combating crimes motivated by prejudice, including crimes committed via Internet. Discussing international and constitutional regulations concerning hate speech and freedom of speech constitute an important element of the trainings. Other participants of these trainings are officers of Internal Security Agency, Polish Border Guard and Military Gendarmerie.

182. Ministry of Justice's mechanism of collecting statistics concerning hatred crimes has been improved. These changes' purpose is even more effective combating and surveillance of this kind of crimes, and they consist in considering perpetrator's motivation in judiciary's statistics. Statistics collected by the Ministry of Justice were hitherto based on the systematics adopted by the Penal Code, therefore the Ministry disposed of data about sentences on the basis of particular articles and information on adjudged penalties and punitive measures, quantity of conducted proceedings etc. Since 1 July 2015 a modification has been introduced to electronic statistical card *The MS S28 on Indictment on Final and Legally Binding Decision*, which consists in the need of obligatory introducing data about perpetrator's motivation by courts in — column 4 (concerning. hatred crime). Without filling in this column it is not possible to pass to further columns, close and send the card. The catalogue of perpetrator's motives has also been broadened with following categories: sex, disability, age, sexual orientation and gender identity. Statistical card template — Appendix 21.

Answer to question 31 — Terrorism

183. Since the last report, important improvements of anti-terrorist law have been introduced in Poland. On 10 June 2016 the Act on anti-terrorist activities (UDA), which comprehensively regulates the issues of recognition, counteracting and combating terrorist threats and removing the effects of attacks has been passed. The act introduces some intrinsic solutions in respect of preparatory proceedings:

- Article 25 stipulates a special mode of preparatory proceeding;[32]
- According to Art 26 admits intelligence information.[33]

184. In addition, UDA introduced differentiates penalty of the stage of preparation for committing crimes against peace, humanity, and war crimes specified in: Article 117 Kk (initiating or waging an invading war), Article 118 Kk (genocide) Article 118a Kk (participation in mass assassination attempt against a group of people), 120 Kk (using means of mass destruction), 122 Kk (conducting warfare in a way inconsistent with the international law), 123 Kk (war crimes against prisoners of war or the civilian population), 124 Kk (other cases of violating international law while conducting military operations) and 125 Kk (damaging or appropriation of cultural heritage). The regulations refer to anyone who makes preparations for committing crimes specified in the aforementioned regulations. Bearing in mind a special dimension of crimes against peace, humanity, and war crimes — including crimes associated with terrorist organizations activities — it has been recognized that preparation to committing them should also subject to punitive sanctions. It is also necessary to indicate that preparatory process to committing terrorist crimes, including creation of logistic facilities, is long lasting and has key importance for the success of the planned attack. Therefore, enabling making people who undertake logistic and organizational action subject to sanctions allow dismantling terrorist organizations with greater effectiveness and prevent terrorist threats.

185. UDA also regulates the issue of collecting fingerprints or recording image of the face or non-invasive collecting of biological material to determine DNA profile of a person who is not a citizen of the Republic of Poland — assigning the aforementioned competences to officers of Internal Security Agency, Police and Border Guard.

186. Conditions of collecting biometric data on the basis of UDA, i.e.: existence of doubts regarding a person's identity, existence of suspected illegal crossing of the border of Republic of Poland or doubts concerning the declared purpose of stay on the territory of the Republic of Poland, existence of a suspicion regarding intention of illegal stay on the territory of the Republic of Poland, existence of a person's suspected association with a terrorist event, a suspicion that the person could have participated in terrorist training, have evaluation character, which results from the specific nature of a situation in which service officers deal with a person, whose information cannot be verified otherwise. Abandonment of a list of conditions formulated in this way, constituting the basis for collecting biometric data would result in the need to verify all persons who are not Polish citizens. The mechanism introduced in this article constitutes the basis for verification of these persons' identity, to ensure the state's safety and, at the same time, remains necessary and purposeful. Because of the specificity of terrorist threats, the process of radicalization and gaining combat experience by the so-called foreign fighters may proceed in many countries of the world, which validates verification of identity of suspicious persons who are staying on the territory of the Republic of Poland.

[32] The mode's purpose is detection, detention or compulsory appearance of the suspect, as well as finding objects that may constitute evidence in a penal case or that can be seized in the criminal proceedings. The mode refers, among others, to possibility of issuing decision to conduct searching of the spaces and other places in the decision area or arresting the suspect — if there are reasonable grounds to presume that the suspecting or the aforementioned things can be found in that area. In order to find objects that may constitute evidence in a penal case or can be seized in criminal proceedings, this article envisages also a possibility of the search of a person who stays in the area specified in the decision, as well as their clothes and belongings. The above? activities can be conducted at any time. Decision on inspection is subject to complaint pursuant to Article 236 Kpk.

[33] It was indicated that if it is required by the good of the preparatory proceeding, the decision to present charges can be prepared on the basis of information obtained from investigative operations, including operations referred to in Article 9, i.e. ordered by the Head of Internal Security Agency towards a person who is not a Polish citizen in relation to whom there is fear with regard to the possibility of conducting terrorist activity, for a period not longer than 3 months, secretly conducted investigative operations. Furthermore, in this case the court, may use temporary arrest for a period not exceeding 14 days at the request of the prosecutor. Intrinsic premise for application of temporary detention will be the likelihood of attempt or preparation to commit a terrorist crime. Temporary arrest can be extended on general terms specified in Article 263 Kpk. To the extent not regulated in this article, to the aforementioned temporary arrest shall apply regulations chap. 28 Kpk.

187. UDA also envisages, in strictly specified cases, restrictions in the sphere of freedom gatherings. This applies to conditions related to introduction of the third or the fourth alert level. The above alert levels are introduced only in precisely specified cases particularly in the cases of a high level of a terrorist threat.

188. At the same time it should be pointed out that though on the community level, there are currently no absolutely binding regulations that would regulate the issues of this subject Nevertheless the aforementioned valid act of 10 June 2016 remains in accordance with documents adopted by the European Union referring to problems of terrorist threats, in particular *Framework Council Decision 2002/475/WSiSW of 13 June 2002 on prevention of terrorism* (Official Journal of the European Union L, No. 164, item 3) and *Framework Council Decision 2008/919/WSiSW of 28 November 2008, amending Framework Council Decision 2002/475/WSiSW with 13 June 2002 on prevention of terrorism* (Official Journal of the European Union L no. 330, item 21).

189. In relation to enactment of UDA important changes in this respect in the Penal Code have also been introduced. They have been presented in Appendix no. 22.

190. The purpose of the new solutions, is on the one hand to increase prosecution authorities' capacity with regard to prevention of terrorist crimes, and on the other hand to ensure persons participating in preparations to commit a crime guarantee of non-punishability in case of withdrawing from committing of some crimes. It should enable increasing prosecution authorities' capacity with regard to obtaining information about planned terrorist crimes, as well as weakening solidarity of terrorist organizations' members, what remains crucial from the perspective of destabilization of these organizations.

Answer to question 32 — Other activities

191. In March 2015 Poland signed the Council of Europe Convention on Action against trafficking in human beings. Currently in Poland there is an ongoing work on adjustment of the provisions of the national law to these provisions what will allow its ratification — a bill on amending the Act on collecting, storage and graft of cells, tissues and organs has been adopted by the permanent Committee of the Council of Ministers and directed for examination by the Legal Commission.

192. In October 2016 Poland ratified the Protocol to the Convention no. 29 concerning forced labour of 1930, adopted in Geneva on 11 June 2014. The purpose of the Protocol acceptance is development of measures of prevention of forced labour and protection and support of victims.

193. Poland not only implements the standards of international law with regard to prevention and counteracting of tortures, but also takes active part in creating them. In the reporting period the representative of the Ministry of Justice with votes of 73 negotiating states has been selected to the strict office of an Intergovernmental Expert Group on the revision of standard Minimum Rules for the treatment of prisoners of UN (amendment adopted by the General Assembly of UN in December 2015). Currently the Ministry of Justice participates in preparing documents for the correct implementation and use of the rules (e.g. manual — guidelines for conducting inspection in penitentiary facilities "A checklist for internal inspection mechanism" regarding observance of human rights of inmates).